



TO: Loretta Lynch, President
California Public Utilities Commission

FROM: Tim Gage, Director
Department of Finance

Thomas Hannigan, Director
Department of Water Resources

Barbara Lloyd, Deputy Treasurer
State Treasurer's Office

DATE: July 2, 2001

We write to advise you of our understanding of a revised timetable for certain actions to be taken by the Public Utilities Commission (PUC) in connection with the Department of Water Resources (DWR) Power Supply Revenue Bonds.

Over the last few days, the Governor's Office, Department of Finance, DWR, State Treasurer's Office, and PUC have determined a new timetable for these actions that will take advantage of the provisions of SBX1 31, allowing expedited resolution of any administrative and judicial appeals of relevant PUC actions.

Under the revised timetable, we request that the PUC actions required to complete the financing be scheduled for mid-August, immediately after the expedited appeal and review provisions take effect. These actions include:

- Servicing Agreements and Servicing Order, as applicable to each IOU
- Rate Agreement between the PUC and the DWR
- Rate Order for DWR
- San Diego Gas & Electric Rate Adjustment
- Suspension of Retail Choice

By re-scheduling these PUC actions to occur following the effective date of the new law, the State is better able to resolve in the most expeditious manner any challenges that might be filed. The revised schedule also will permit the PUC to publish its draft

decisions well in advance of the scheduled actions, thus providing all interested parties with ample opportunity for review and comment. It is our understanding from conversations with PUC staff and officials that publication of all necessary documents related to the above actions will occur on or about July 16, 2001. We presently are relying on this publication timetable in order to prepare materials for delivery to credit analysts as soon as one week later.

As we have discussed, any delays in publication would negatively affect the State's ability to obtain timely credit ratings and enhancement for this transaction. Likewise, any delays in action on these matters would negatively affect the State's ability to complete marketing and sale of the bonds on a timely basis.

Thank you for your continued assistance in bringing about a successful sale of the department's revenue bonds.

(END OF APPENDIX B)

DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791



June 27, 2001

Commissioners
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

Re: Request for Servicing Order

Dear Commissioners:

This letter is submitted by the Department of Water Resources in accordance with Division 27 of the California Water Code (the "Act").


Section 80106(b) of the Act provides that "[a]t the request of the Department, the Commission shall order the related electrical corporation or its successor in the performance of related service, to transmit or provide for the transmission of, and distribute the power and provide billing and collection, and other related services, as agent of the Department, on terms and conditions that reasonably compensate the electrical corporation for its services."

Pursuant to Section 80106(b), the Department respectfully requests the California Public Utilities Commission to order Pacific Gas & Electric Company (the "Electrical Corporation") to provide transmission, distribution, billing, collection and other services relating to the exercise of the Department's powers and the discharge of its duties under the Act on the terms and conditions set forth in the Servicing Agreement attached as Exhibit A hereto (the "Servicing Agreement"). If the Commission's order pursuant to Section 80106(b) requires the Electrical Corporation to comply with the terms and conditions of the Servicing Agreement, the Department would comply with its duties thereunder.

In furtherance of the financing imperatives of the Department and of the public policy goals expressed in the Act and elsewhere, the Department further requests the Commission to issue its order under Section 80106(b) as expeditiously as possible.

Thank you for your assistance and attention to this important matter.

Sincerely,


for Thomas M. Hannigan
Director

Attachment



Exhibit A

Form of Servicing Agreement

SERVICING AGREEMENT

Between

**STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES**

And

PACIFIC GAS AND ELECTRIC COMPANY

THIS AGREEMENT HAS BEEN FILED WITH AND APPROVED BY THE CALIFORNIA PUBLIC UTILITIES COMMISSION (“COMMISSION”) AND THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION (“BANKRUPTCY COURT”) FOR USE BETWEEN THE STATE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES (“DWR”) AND PACIFIC GAS AND ELECTRIC COMPANY (“UTILITY”).

Execution Date: _____

Date of Commission Approval: _____

Date of Bankruptcy Court Approval: _____

Effective Date: _____

SERVICING AGREEMENT

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ATTACHMENTS

<u>Attachment</u>	<u>Title</u>
SA1	Service Attachment 1 – Consolidated Utility Billing Services
A	Representatives and Contacts
B	Remittance Methodology
C	Sample Daily and Monthly Reports
D	General Terms and Conditions
E	Additional Provisions
F	Calculation Methodology for Reduced Remittances Pursuant to 20/20 Program
G	Fee Schedule
H	[Not Applicable]

SERVICING AGREEMENT

THIS SERVICING AGREEMENT (the “Agreement”) is entered into by and between the State of California Department of Water Resources (“DWR”), separate and apart from its powers and responsibilities with respect to the State Water Resources Development System, and Pacific Gas and Electric Company, a California corporation (“Utility”). DWR and Utility are sometimes collectively referred to as the “Parties” and individually referred to as a “Party.”

RECITALS

- A. Under the Act, DWR is authorized to sell electric power and energy to Customers. Amounts payable by DWR under this Agreement are payable solely from the Department of Water Resources Electric Power Fund established pursuant to Section 80200 of the California Water Code or other appropriated amounts legally available therefor.
- B. Utility is engaged in, among other things, the transmission and distribution of electrical services to customers in its service territory, the billing and collection for electrical services and other charges, and the ownership, installation and reading of electrical meters for such customers.
- C. The Act and Applicable Commission Orders allow DWR and the Utility to enter into contracts under which the Utility provides for the transmission and distribution of all power sold or made available for sale by DWR to Customers, and provides billing, collection and related services, as agent for DWR, on terms and conditions that reasonably compensate Utility for its services.
- D. The Parties desire to set forth the terms under which Utility will provide for the transmission and distribution of DWR Power as well as billing and related services.

NOW, THEREFORE, in consideration of the mutual obligations of the Parties, the Parties agree as follows:

Section 1. Definitions.

The following terms, when used herein (and in the attachments hereto) with initial capitalization, shall have the meaning specified in this Section 1. Certain additional terms are defined in the attachments hereto. The singular shall include the plural and the masculine shall include the feminine and neuter, and *vice versa*. “Includes” or “including” shall mean “including without limitation.” References to a section or attachment shall mean a section or attachment of this Agreement, as the case may be, unless the context requires otherwise, and reference to a given agreement or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented or restated through the date as of which such reference is made (except

as otherwise specifically provided herein). Unless the context otherwise requires, references to Applicable Laws or Applicable Tariffs shall be deemed references to such laws or tariffs as they may be amended, replaced or restated from time to time. References to the time of day shall be deemed references to such time as measured by prevailing Pacific time.

- 1.1. **ACH** – Automated Clearing House, a nationwide payment and collection system which provides for the electronic distribution and settlement of funds.
- 1.2. **Act** – Chapter 4 of Statutes of 2001 (Assembly Bill 1 of the First 2001-02 Extraordinary Session) of the State of California.
- 1.3. **Additional Charges** – Additional Charges shall have the meaning set forth in Section 7.2 below.
- 1.4. **Agreement** – This Servicing Agreement, including all attachments hereto.
- 1.5. **Applicable Commission Orders** – Such rules, regulations, decisions, opinions or orders as the Commission may lawfully issue or promulgate from time to time, which further define the rights and obligations of the Parties under this Agreement.
- 1.6. **Applicable Law** – The Act, Applicable Commission Orders and any other applicable statute, constitutional provision, rule, regulation, ordinance, order, decision or code of a Governmental Authority.
- 1.7. **Applicable Tariffs** – Utility’s tariffs, including all rules, rates, schedules and preliminary statements, governing electric energy service to Customers in Utility’s service territory, as filed with and approved by the Commission and, if applicable, the Federal Energy Regulatory Commission.
- 1.8. **Assign(s)** – Assign(s) shall have the meaning set forth in Section 14.3(c).
- 1.9. **Bankruptcy Court** – The United States Bankruptcy Court for the Northern District of California, San Francisco Division, in which the Chapter 11 reorganization case involving Utility as a debtor in possession is pending as of the Execution Date.
- 1.10. **Billing Services** – Consolidated Utility Billing Service or Dual Billing Service, as the case may be.
- 1.11. **Bureau** – Bureau shall have the meaning set forth in Section 8.2(b).
- 1.12. **Business Days** – Regular Monday through Friday weekdays which are customary working days, excluding holidays, as established by Applicable Tariffs.
- 1.13. **Business Hours** – The period on a Business Day from 9:00 a.m. until 5:00 p.m.
- 1.14. **C.E.R.S.** – California Energy Resource Scheduling, a division of DWR.

- 1.15. **Charges** – DWR Charges and Utility Charges.
- 1.16. **Claims** – Claims shall have the meaning set forth in Section 12.
- 1.17. **Commission** – The California Public Utilities Commission.
- 1.18. **Confidential Information** – Confidential Information shall have the meaning set forth in Section 6.1(c).
- 1.19. **Consolidated Utility Billing Service** – Billing service through the use of Consolidated Utility Bills as described in Service Attachment 1 to this Agreement.
- 1.20. **Consolidated Utility Bill** – A consolidated bill prepared and presented by Utility to a Customer which includes both the Customer’s Utility Charges and DWR Charges.
- 1.21. **Customer** – A customer of Utility that purchases (or is deemed to purchase) DWR Power pursuant to Section 2.3.
- 1.22. **Daily Remittance Amount** – Daily Remittance Amount shall have the meaning set forth in Section 4.2(a).
- 1.23. **Daily Remittance Report** – Daily Remittance Report shall have the meaning set forth in Section 4.2(b).
- 1.24. **Day-Ahead Market** – The daily ISO forward market for which energy and ancillary services are scheduled for delivery on the following calendar day.
- 1.25. **Delinquent Payment** – Delinquent Payment shall mean the payment of any amount due under this Agreement after the time when payment is required to be made hereunder, as further described and/or limited hereunder.
- 1.26. **Discloser** – Discloser shall have the meaning set forth in Section 6.1(c).
- 1.27. **Dual Bills** – Separate bills prepared and presented by DWR (or its agent) and Utility to a Customer for the Customer’s DWR Charges and Utility Charges, respectively.
- 1.28. **Dual Billing Service** – Billing service through the use of Dual Bills.
- 1.29. **DWR Charges** – Charges assessed to Customers for DWR Power and any other amounts authorized to be collected pursuant to Sections 80110 and 80134 of the California Water Code in order to meet DWR’s revenue requirements under the Act, as calculated pursuant to Applicable Law.
- 1.30. **DWR Power** – The electric power and energy, including but not limited to capacity and output, or any of them supplied by DWR to Customers pursuant to the Act and Applicable Commission Orders.

- 1.31. **DWR Revenues** – Those amounts required to be remitted to DWR by Utility pursuant to Applicable Law.
- 1.32. **DWR's Agent** – DWR's Agent shall have the meaning set forth in Section 8.2(b).
- 1.33. **Effective Date** – The date this Agreement is effective in accordance with Section 14.16, as such date is set forth on the cover page hereof.
- 1.34. **Event of Default** – Event of Default shall have the meaning set forth in Section 5.2.
- 1.35. **Execution Date** – The date this Agreement is fully executed by the Parties, as such date is set forth on the cover page hereof.
- 1.36. **Final Hour-Ahead Schedule** – The final schedule of DWR Power submitted by DWR and Utility and published by the ISO for the Hour-Ahead Market.
- 1.37. **Fund** – Fund shall have the meaning set forth in Section 13.2.
- 1.38. **Governmental Authority** – Any nation or government, any state or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to a government, including the Commission.
- 1.39. **Governmental Program** - Any program or directive established by Applicable Law which directly or indirectly affects the rights or obligations of the Parties under this Agreement and which obligates or authorizes DWR to make payments or give credits to Customers or other third parties under such programs or directives.
- 1.40. **Hour-Ahead Market** – The ISO forward market for which energy and ancillary services are scheduled for subsequent hours for delivery on the current calendar day.
- 1.41. **Imbalance Energy** – The difference between electric power delivered to serve Customer loads and the electric power scheduled in the Day-Ahead Market or Hour-Ahead Market for provision to Customers.
- 1.42. **Indemnified Party** – Indemnified Party shall have the meaning set forth in Section 12.
- 1.43. **Indemnifying Party** – Indemnifying Party shall have the meaning set forth in Section 12.
- 1.44. **Initial Remittance Date** – Initial Remittance Date shall have the meaning set forth in Section 4.2(a).
- 1.45. **Insolvency Event** – With respect to Utility, (a) the filing of a decree or order for relief by a court having jurisdiction in its premises or any substantial part of its property in an involuntary case under any applicable federal or state bankruptcy,

insolvency or other similar law now or hereafter in effect, or the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for it or for any substantial part of its property, or the ordering of the winding-up or liquidation of its affairs, and such decree or order shall remain unstayed and in effect for a period of 60 consecutive calendar days; or (b) the commencement by it of a voluntary case under any applicable federal or state bankruptcy, insolvency or other similar law now or hereafter in effect, or the consent by it to the entry of an order for relief in an involuntary case under any such law, or the consent by it to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for it or for any substantial part of its property, or the making by it of any general assignment for the benefit of creditors, or the taking of action by it in furtherance of any of the foregoing.

- 1.46. **Interim Remittance Methodologies** – Interim Remittance Methodologies shall have the meaning set forth in Section 4.2(e).
- 1.47. **ISO** – The State of California Independent System Operator.
- 1.48. **Late Payment Rate** – The Prime Rate plus 3%.
- 1.49. **Prime Rate** – The rate which Morgan Guaranty Trust Company of New York announces from time to time in New York, New York as its prime lending rate, the Prime Rate to change when and as such prime lending rate changes. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer.
- 1.50. **Recipient** – Recipient shall have the meaning set forth in Section 6.1(c).
- 1.51. **Recurring Fees** – Recurring Fees shall have the meaning set forth in Section 7.1.
- 1.52. **Remittance** – A payment by Utility to DWR or its Assign(s) in accordance with this Agreement.
- 1.53. **Scheduled Energy** – DWR Power set forth on schedules submitted by DWR to Utility and the ISO in the Day-Ahead Market and Hour-Ahead Market that, pursuant to Section 2.2(b), DWR will provide to Customers.
- 1.54. **Scheduling Coordinator – to – Scheduling Coordinator Trade** – Schedules for energy transferred from one ISO scheduling coordinator to another. Such schedules are deemed delivered by the ISO upon publication by the ISO of the final schedules.
- 1.55. **Services** – Billing Services, metering services and meter reading services which may be performed by Utility and related collection, remittance and other services provided by Utility for DWR pursuant to this Agreement.
- 1.56. **State** – The State of California.

- 1.57. **Set-Up Fee** – Set-Up Fee shall have the meaning set forth in Section 7.1.
- 1.58. **Term** – The term of this Agreement as set forth in Section 5.1.
- 1.59. **20/20 Program** – 20/20 Program shall have the meaning set forth in Section 4.3.
- 1.60. **Utility Charges** – Charges incurred by a Customer for electricity-related services and products provided by Utility to the Customer, as approved by the Commission and, as applicable, the Federal Energy Regulatory Commission or other Governmental Authority (including, but not limited to, any Competition Transition Charges or Fixed Transition Amount Charges owing to Utility or its affiliates, as those terms are defined under the California Public Utilities Code). Utility Charges shall not include DWR Charges or charges related to natural gas related services and products.
- 1.61. **Utility-Provided Electric Power** – Utility-Provided Electric Power shall refer to electricity from Utility's own generation, qualifying facility contracts, other power purchase agreements and bilateral contracts. Utility-Provided Electric Power shall not include DWR Power.

The terms used in the attachments, but not specifically defined herein or elsewhere in this Agreement, are understood by the Parties to have their ordinary meanings.

Section 2. Energy Delivery and Ownership.

2.1. Delivery of Power.

Pursuant to the Act and Applicable Commission Orders, Utility covenants and agrees to transmit, or provide for the transmission of, and distribute DWR Power to Customers over Utility's transmission and distribution system in accordance with Applicable Law, Applicable Tariffs and any other agreements between the Parties.

2.2. Data and Information Communications Procedures.

- (a) Utility shall estimate Customer usage and Utility-retained generation for a given trade day and shall communicate the net of such estimate to DWR by 7:00 a.m. on the preceding Business Day. In the event that DWR observes a persistent deviation between estimated Customer usage and actual Customer usage, or between estimated Utility-retained generation and actual Utility-retained generation, DWR may request Utility to review, and Utility will promptly commence to review, Utility's forecast methodology and will report the results of such review to DWR; provided, however, that Utility shall have no obligation to correct or minimize such deviation except as provided in Attachment E hereto.
- (b) DWR shall send to Utility in writing each day the Scheduling Coordinator-to-Scheduling Coordinator Trade between DWR and Utility. This information

shall be delivered no later than 9:30 a.m. for trades in the Day-Ahead Market for the following day, and no later than two hours and twenty minutes prior to the start of the delivery hour for trades in the Hour-Ahead Market. Utility and DWR will separately provide these schedules to the ISO prior to the close of the respective markets. The above deadlines for DWR are set because the ISO Day-Ahead Market currently closes at 10:00 a.m. on the day before delivery and the ISO Hour-Ahead Market currently closes two hours before the delivery hour. If these closing times should change, the deadlines for submission of DWR data to Utility shall change proportionately, which revised deadlines shall be confirmed in writing by DWR and Utility. Upon Utility's request, DWR shall supply information to Utility substantiating to Utility's reasonable satisfaction (i) the total amount of energy purchased by DWR in the Day-Ahead Market and Hour-Ahead Market; and (ii) other such information that may be required for Utility to verify the DWR Charges, including information regarding the allocation of such energy among Customers and other third parties to the extent so required.

- (c) To determine the basis for remittance of revenues to DWR, Utility shall use the ISO published Final Hour-Ahead Schedule which reflects the C.E.R.S. Scheduling Coordinator-to-Scheduling Coordinator Trade with Utility, divided by Utility's estimate of Customer usage. Until such time as DWR and Utility amend this Agreement to address Imbalance Energy, Imbalance Energy will not be included in the foregoing calculation or in Remittances.
- (d) Adjustments to the remittance of revenues to DWR in (c) above will be based on the following, (i) the difference between scheduled quantities and those scheduled quantities which are actually reflected in ISO settlement statements, and (ii) the difference between the Utility estimate of Customer usage and the actual Customer usage reflected in ISO settlement statements. Utility shall include an adjustment of DWR Power and DWR Charges on its next Consolidated Utility Bill if so provided for in Attachment B hereto.
- (e) All data and information to be exchanged between the Parties in connection with scheduling transactions shall be in the format agreed to by Utility and DWR and shall, except as otherwise provided by this Agreement or Utility Applicable Tariffs, or as may be approved by Utility in its reasonable discretion, be submitted electronically. If a Party receives any information that is unreadable, or contains data that cannot be processed by the receiving Party's system, or is otherwise damaged, such receiving Party shall inform the sending Party of such problem. Until any such problem is corrected, the receiving Party shall not be responsible for processing information received in this condition. The foregoing notwithstanding, a receiving Party shall not be excused from its obligation to process information if the receiving Party cannot read or otherwise process the information sent by the sending Party as a result of defects, errors, bugs, or viruses in the receiving Party's systems or

software or due to negligence or wrongful act(s) or failure(s) to act on the part of the receiving Party's employees, agents, independent contractors, subcontractors or assigns.

2.3. Ownership of Power.

Notwithstanding any other provision herein, and in accordance with the Act and Section 80110 of the California Water Code, Utility and DWR agree that DWR shall retain title to all DWR Power sold by DWR to Customers. In accordance with the terms hereof, Utility is acting solely as the servicing agent for DWR with respect to the sale of DWR Power by DWR directly to Customers. In accordance with the Act and Section 80104 of the California Water Code, upon the delivery of DWR Power to Customers, those Customers shall be deemed to have purchased that power from DWR, and payment for any such sale shall be a direct obligation of such Customers to DWR. Notwithstanding any other provision herein, DWR and Utility agree that Utility shall retain title to all Utility-Provided Electric Power supplied by Utility to Customers.

2.4. Allocation of DWR Power.

DWR Power will be allocated pursuant to the Act and other Applicable Law and Applicable Tariffs.

Section 3. Billing Services.

3.1. Provision of Services by Utility.

- (a) Utility shall provide metering services, meter reading services and Billing Services relating to the delivery of DWR Power. Metering services, meter reading services and Billing Services shall be provided in accordance with Applicable Commission Orders, Applicable Tariffs and Service Attachment 1 hereto.
- (b) On behalf of DWR, Utility shall (i) follow its customary standards, policies and procedures in performing its duties hereunder and (ii) perform its duties hereunder using the same degree of care and diligence that Utility exercises for its own account.

3.2. Termination of Consolidated Utility Billing Service.

Upon compliance with the requirements set forth in Section 5.3, DWR shall have the right to terminate Consolidated Utility Billing Service and to commence Dual Billing Service. DWR shall provide Utility at least 90 calendar days advance written notice of its intention to commence Dual Billing Service. Utility will (i) cooperate with DWR in order to permit DWR to establish and implement Dual Billing Service, and (ii) provide such data and other information as DWR may reasonably request to

enable DWR to establish and implement such service; provided, however, that, without diminishing Utility's obligations described in items (i) and (ii) above, nothing in this Section 3.2 or elsewhere in this Agreement shall obligate Utility to ensure that Dual Billing Service can or will be commenced within 90 calendar days after advance written notice from DWR of its intention to commence Dual Billing Service. Utility's reasonable costs of (x) establishing and implementing Dual Billing Service and (y) ceasing implementation of Dual Billing Service and reverting to Consolidated Utility Billing Service as contemplated in Section 5.3(b) below, will be borne by DWR, and such costs shall be invoiced to DWR as Additional Charges and shall be subject to the provisions of Section 7 of this Agreement.

3.3. Modification of Billing and Metering Systems.

Utility reserves the right to modify and replace its billing and metering systems, subject to the requirements of Applicable Law, if any. However, to the extent that such modifications and replacements materially interrupt Services provided by Utility to DWR, Utility shall provide to DWR, as soon as reasonably practicable, prior written notice of any such changes, including, but not limited to, such changes as are required by Applicable Law or Applicable Commission Order(s). Moreover, to the extent any such modifications would affect the collection of DWR Charges in a manner which is different from the collection of Utility Charges, Utility shall obtain DWR's prior written consent to such modifications, which consent shall not be unreasonably withheld or delayed.

3.4. Customer Inquiries.

So long as Consolidated Utility Billing Service is in place, Utility agrees to address all Customer inquiries regarding the DWR Charges. DWR agrees to provide all necessary information to Utility in order to permit Utility to respond to all Customer inquiries on a timely basis. In extraordinary circumstances, Utility will refer Customer inquiries to DWR in a manner to be agreed upon by the Parties. In the event that either (i) DWR's failure to provide all such necessary information to Utility, (ii) DWR's provision of inaccurate information or (iii) DWR's failure to handle Customer inquiries referred to it by Utility in extraordinary circumstances in the manner agreed upon by the Parties results in Utility's non-compliance with its obligations under this Section 3.4, such non-compliance will not constitute a material breach of this Agreement and will not give DWR the right to terminate this Agreement. Upon any election by DWR to proceed with Dual Billing pursuant to Section 3.2 above, and until such Dual Billing is in place and fully operational, Utility's obligations under this Section 3.4 shall continue, and Utility agrees to cooperate with DWR in responding to Customer inquiries regarding the transition to Dual Billing.

Section 4. DWR Charges; Remittance of DWR Revenues.

4.1. DWR Charges.

DWR Revenues required to be remitted to DWR under this Agreement shall be based upon DWR Charges in effect from time to time pursuant to Applicable Law.

4.2. Remittance of DWR Revenues.

As provided below and in Attachment B hereto, all DWR Revenues shall be held by Utility in trust for DWR (whether or not held together with other monies) and shall be remitted to DWR.

- (a) Within one Business Day after the Effective Date, Utility shall determine the Daily Remittance Amount in the manner set forth in Attachment B hereto (the “Daily Remittance Amount”). On the day of such determination (the “Initial Remittance Date”), Utility shall remit to DWR or its Assign(s) the Daily Remittance Amount, if any, for each day from the Effective Date up to and including the Initial Remittance Date. On each subsequent Business Day during the remainder of the Term, Utility shall determine and remit to DWR or its Assign(s) the Daily Remittance Amount for such Business Day. If the Utility determines that it has remitted amounts to DWR in error, Utility may provide notice of such event to DWR (accompanied by an explanation of the facts surrounding such erroneous deposit), and DWR shall review such notice and information as soon as practicable and promptly repay such funds if and to the extent DWR agrees with Utility, such agreement not to be unreasonably withheld or delayed.
- (b) Each Remittance shall be accompanied by a written report substantially in the form of that set forth in Attachment C hereto (the “Daily Remittance Report”). Utility will not be required at any time to advance or pay any of its own funds in the fulfillment of its responsibilities hereunder with respect to DWR Charges, except to the extent provided otherwise in the Attachments hereto.
- (c) Utility, from time to time, will make adjustments regarding amounts remitted as described in Attachment B hereto. In addition, monthly reconciliation reports, as described in Attachment C hereto, shall be filed with DWR by Utility.
- (d) Except as expressly provided in this Agreement (including the Attachments hereto), Utility shall not deduct from amounts due to DWR hereunder any amounts owing by DWR to Utility which relate to arrangements within or outside the scope of this Agreement, or any other amounts, and Utility expressly waives any right to do so. The foregoing shall not limit Utility’s

rights to seek any other remedies permitted under other arrangements with DWR.

- (e) The Parties recognize that prior to the Effective Date, Utility has been remitting DWR Charges to DWR based upon the interim remittance methodologies described in Decision 01-03-081, adopted by the Commission on March 27, 2001, and Decision 01-05-064, adopted by the Commission on May 15, 2001 (collectively the "Interim Remittance Methodologies"). Utility shall reconcile the amounts remitted pursuant to the Interim Remittance Methodologies at the time and in the manner set forth in Attachment B hereto.

4.3. 20/20 Program.

To the extent that the program established in the California Governor's Executive Order D-30-01, dated March 13, 2001, and Executive Order D-33-01, dated April 26, 2001, as the foregoing orders may be amended, supplemented, extended or otherwise modified (the "20/20 Program"), obligates DWR to make payments or extend credits to Customers or other third parties under such program, Remittances to DWR may be reduced by such payments to the extent of DWR's responsibility as required by Applicable Law and Applicable Tariffs. Utility's reasonable initial implementation and recurring administrative costs associated with such program shall be paid by DWR in the same manner and at the same times as Utility's Set-Up Fee and Recurring Fees, respectively, as described in Sections 7.2 and 7.3 below. Additionally, Utility will invoice DWR for any other costs incurred by Utility under such program, and DWR shall pay such invoices as Additional Charges, in the manner contemplated in Section 7 below. The method for calculating reduced Remittances to DWR under this Section 4.3, as well as Utility's implementation and administration costs, shall be as set forth in Attachment F hereto.

Section 5. Term and Termination; Events of Default.

5.1. Term.

The term of this Agreement (the "Term") shall commence on the Effective Date and shall terminate on the earlier of (a) 180 calendar days after the last date DWR makes DWR Power available for sale to Customers, or (b) the earlier termination of this Agreement pursuant to this Section 5.

5.2. Events of Default by Utility.

The following events shall constitute "Events of Default" by Utility under this Agreement:

- (a) any failure by Utility to remit to DWR or its Assign(s) any required Remittance in the manner and at the time specified in this Agreement (except to the extent otherwise allowed under Sections 4.3 and 7.2) that continues

unremedied for three Business Days after the earlier of the day Utility receives written notice thereof from DWR or the day the responsible manager at Utility first has actual knowledge of such failure; or

- (b) any failure by Utility to duly observe or perform in any material respect any other covenant or agreement of Utility set forth in this Agreement, which failure (i) materially and adversely affects the interests or rights of DWR or its Assign(s), and (ii) continues unremedied for a period of 60 calendar days after written notice of such failure has been given to Utility by DWR or its Assign(s); or
- (c) any representation or warranty made by Utility in this Agreement proves to have been incorrect when made, which has a material adverse effect on DWR or its Assign(s) and which material adverse effect continues unremedied for a period of 60 calendar days after the date on which written notice thereof has been given to Utility by DWR or its Assign(s).

5.3. Consequences of Utility Events of Default.

- (a) Upon any Event of Default by Utility, DWR may, in addition to exercising any other remedies available under this Agreement or under Applicable Law,
 - (i) terminate this Agreement in whole or in part (including Service Attachment 1); (ii) upon 90 days' prior written notice to Utility and the Commission, including in such notice a written determination by DWR to the Commission that the default materially and adversely affects the interests or rights of DWR or its Assign(s), and subject to subsection (b) of this Section, establish and implement Dual Billing Service as set forth in Section 3.2; and (iii) apply to the Commission and, if necessary, any court of competent jurisdiction for sequestration and payment to DWR or its Assign(s) of DWR Revenues. Remittances not made to DWR by Utility on the date due (except to the extent Remittances were not made by operation of Sections 4.3, 7.2, 14.4 or Attachment B hereto) shall bear interest at the Prime Rate from the first day after the due date until the third Business Day after the due date, and at the Late Payment Rate thereafter until paid.
- (b) During the 90 day period following the date of the notice referred to in subsection (a)(ii) of this Section, DWR shall cooperate with any and all Commission orders, decisions or other actions to obtain a cure of the Event of Default or to engage a replacement servicer satisfactory to DWR and the Commission upon terms and conditions comparable to the terms and conditions of this Agreement or otherwise reasonably satisfactory to DWR and the Commission. If, at the end of such 90 day period, (i) the Event of Default has not been cured, (ii) such Event of Default materially and adversely affects the interests or rights of DWR or its Assign(s) and (iii) the Commission has not made in a formal proceeding either a finding that a replacement servicer

will be engaged within the next 30 days or a finding that Utility will cure the Event of Default within the next 30 days, then DWR may proceed to implement Dual Billing Service pursuant to Section 3.2 above. If, at any time after the date on which DWR is entitled to implement Dual Billing Service, Utility is ordered by the Commission to provide the Services hereunder and the Commission further determines that Utility or a replacement servicer is capable and willing to perform such Services, DWR will immediately take steps to discontinue Dual Billing Service in a manner which will not materially and adversely affect the interests of its bondholders or Utility.

5.4. Defaults by DWR.

DWR shall be in default under this Agreement upon:

- (a) subject to subsections (b), (c), (d) and (e) below, DWR's failure to cure its material breach of any provision of this Agreement within 60 calendar days after receiving written notice thereof from Utility;
- (b) Except for amounts to which DWR has objected in writing pursuant to Section 7.2, DWR's failure to pay to Utility the Set-Up Fee or Recurring Fees within three Business Days after the date they are due hereunder, as provided in Section 7;
- (c) Except for amounts to which DWR has objected in writing pursuant to Section 7.2, DWR's failure to pay to Utility the initial implementation and recurring administrative costs associated with Utility's implementation of the 20/20 Program, as provided in Section 4.3;
- (d) Except for amounts to which DWR has objected in writing pursuant to Section 7.2, DWR's failure to fulfill any other monetary obligation hereunder within 15 calendar days after receiving written notice from Utility that such obligation is past due; or
- (e) DWR's failure to fulfill its obligations under Section 2.2 within 15 calendar days after receiving written notice thereof from Utility.

Upon any default by DWR under this Section 5.4, Utility may exercise any remedies available under this Agreement or under Applicable Law, provided that Utility shall have no right to terminate this Agreement either in whole or in part (including Service Attachment 1) or any obligation hereunder. Except for amounts to which DWR has objected in writing pursuant to Section 7.2 and which are determined not to be owed, any Set-Up Fee or Recurring Fees, or any initial implementation and recurring administrative costs associated with Utility's implementation of the 20/20 Program, as provided in Section 4.3, which are not paid to Utility on the date due shall bear interest at the Prime Rate from the first day after the due date until the third Business Day after the date they are required to be made hereunder, and at the Late Payment

Rate thereafter until paid. Except for amounts to which DWR has objected in writing pursuant to Section 7.2 and which are determined not to be owed, any other monetary obligation payable to Utility by DWR shall bear interest at the Prime Rate from the date due until 15 days after receiving written notice from Utility that such amount is overdue, and thereafter at the Late Payment Rate. When and to the extent that any amounts to which DWR has objected in writing pursuant to Section 7.2 are determined to be owing, such amounts shall bear interest from the due date at the rates described above for the applicable category of obligation.

5.5. Survival of Payment Obligations.

Upon termination of this Agreement, each Party shall remain liable to the other Party for all amounts owing under this Agreement. Utility shall continue to collect and remit, pursuant to the terms of this Agreement and Attachment B hereto, any DWR Charges billed to Customers before the effective date of termination, except as provided in Attachment B.

Section 6. Confidentiality.

6.1. Proprietary Information.

- (a) Nothing in this Agreement shall affect Utility's obligations to observe any Applicable Law prohibiting the disclosure of Confidential Information regarding its Customers.
- (b) Nothing in this Agreement, and in particular nothing in Sections 6.1(e)(x) through 6.1(e)(z) of this Agreement, shall affect the rights of the Commission to obtain from Utility, pursuant to Applicable Law, information requested by the Commission, including Confidential Information provided by DWR to Utility. Applicable Law, and not this Agreement, will govern what information the Commission may disclose to third parties, subject to any confidentiality agreement between DWR and the Commission.
- (c) The Parties acknowledge that each Party may acquire information and material that is the other Party's confidential, proprietary or trade secret information. As used herein, "Confidential Information" means any and all technical, commercial, financial and customer information disclosed by one Party to the other (or obtained from one Party's inspection of the other Party's records or documents), including any patents, patent applications, copyrights, trade secrets and proprietary information, techniques, sketches, drawings, maps, reports, specifications, designs, records, data, models, inventions, know-how, processes, apparatus, equipment, algorithms, software programs, software source documents, object code, source code, and information related to the current, future and proposed products and services of each of the Parties, and includes, without limitation, the Parties' respective information concerning research, experimental work, development, design details and specifications,

engineering, financial information, procurement requirements, purchasing, manufacturing, business forecasts, sales and merchandising, and marketing plans and information. In all cases, Confidential Information includes proprietary or confidential information of any third party disclosing such information to either Party in the course of such third party's business or relationship with such Party. Utility's Confidential Information also includes any and all lists of Customers, and any and all information about Customers, both individually and aggregated, including but not limited to Customers' names, street addresses of Customer residences and/or facilities, email addresses, identification numbers, Utility account numbers and passwords, payment histories, energy usage, rate schedule history, allocation of energy uses among Customer residences and/or facilities, and usage of DWR Power. All Confidential Information disclosed by the disclosing Party ("Discloser") will be considered Confidential Information by the receiving Party ("Recipient") if identified as confidential and received from Discloser.

- (d) Each Party agrees to take all steps reasonably necessary to hold in trust and confidence the other Party's Confidential Information. Without limiting the generality of the immediately preceding sentence, each Party agrees (i) to hold the other Party's Confidential Information in strict confidence, not to disclose it to third parties or to use it in any way, commercially or otherwise, other than as permitted under this Agreement; and (ii) to limit the disclosure of the Confidential Information to those of its employees, agents or directly related subcontractors with a need to know who have been advised of the confidential nature thereof and who have acknowledged their express obligation to maintain such confidentiality.
- (e) The foregoing two paragraphs will not apply to any item of Confidential Information if: (i) it has been published or is otherwise readily available to the public other than by a breach of this Agreement; (ii) it has been rightfully received by Recipient from a third party without breach of confidentiality obligations of such third party and outside the context of the provision of Services under this Agreement; (iii) it has been independently developed by Recipient personnel having no access to the Confidential Information; or (iv) it was known to Recipient prior to its first receipt from Discloser. In addition, Recipient may disclose Confidential Information if and to the extent required by law or a Governmental Authority, provided that (x) Recipient shall give Discloser a reasonable opportunity to review and object to the disclosure of such Confidential Information, (y) Discloser may seek a protective order or confidential treatment of such Confidential Information, and (z) Recipient shall make commercially reasonable efforts to cooperate with Discloser in seeking such protective order or confidential treatment. Discloser shall pay Recipient its reasonable costs of cooperating.

6.2. No License.

Nothing contained in this Agreement shall be construed as granting to a Party a license, either express or implied, under any patent, copyright, trademark, service mark, trade dress or other intellectual property right, or to any Confidential Information now or hereafter owned, obtained, controlled by, or which is or may be licensable by, the other Party.

6.3. Survival of Provisions.

The provisions of this Section 6 shall survive the termination of this Agreement.

Section 7. Payment of Fees and Charges.

7.1. Utility Fees.

DWR will pay to Utility a fee, calculated in accordance with Attachment G hereto (the “Set-Up Fee”), in order to cover Utility’s costs of establishing the procedures, systems, and mechanisms necessary to perform Services. In addition, DWR also agrees to pay to Utility an annual fee, calculated in accordance with Attachment G hereto, payable monthly in arrears as provided in Section 7.2 hereof (the “Recurring Fees”) for Services rendered pursuant to Section 3.1, Section 3.4 and Service Attachment 1 to this Agreement. Additional fees to cover changes in costs or the costs of other services provided hereunder shall be as set forth in Attachment G, or if not set forth therein, shall be negotiated by the Parties. Except to the extent provided otherwise in subsequent agreements between the Parties and except to the extent otherwise provided under the 20/20 Program, if the Parties are unable to resolve any disputes relating to such additional fees, either Party may, upon giving seven calendar days advance written notice to the other, submit the dispute to the Commission for proposed resolution, in accordance with Applicable Law. Utility acknowledges that the Commission may adjust, with notice to Utility and an opportunity for Utility to be heard, Utility’s rates to avoid double recovery of any costs paid by DWR hereunder which have already been included in Utility’s rates.

7.2. Payment of Utility Fees and Charges.

The Set-Up Fee shall be due and payable on the Effective Date, and DWR will pay Utility the Set-Up Fee, in the manner provided in Section 7.3 below. After receipt of Utility’s invoice 30 days in advance, DWR will pay to Utility its Recurring Fees in monthly installments by the 10th day of each month in the manner provided in Section 7.3 below. Additionally, with respect to all other fees and charges which are expressly identified as owing by DWR to Utility under this Agreement (the “Additional Charges”) Utility shall (in paper format or, at DWR’s option, electronically) submit to DWR an invoice reflecting such Additional Charges for such calendar month. Any invoiced amount for Recurring Fees or Additional Charges shall be due and payable within three Business Days after presentation, and any

invoiced amount and the Set-Up Fee shall be considered past due 30 calendar days after presentation, after which interest shall accrue as provided in Section 7.4. To the extent that any invoiced amounts described in this Section 7.2 are not fully paid within 45 days after presentation, and DWR has not objected to Utility in writing by such date, Utility shall have the right to deduct from any future Remittance(s) the unpaid and overdue amount which is not the subject of any such objection by such date, until such invoice is paid in full or until the dispute over the amount due has been resolved.

7.3. Method of Payment.

- (a) Except as otherwise expressly provided herein, any payment from either Party to the other Party under this Agreement shall be made by ACH or, if ACH is unavailable, then by wire transfer of immediately available funds to the bank account designated by the receiving Party or, if mutually agreed, paid by means of a check or warrant sent to the recipient's address indicated in accordance with Section 14.14 hereof. Where the Parties have made arrangements for a bank or other third party to remit funds from one Party to the other Party, proper identification of the bank or third party, including the account number, shall be furnished in writing. The remitting Party shall reasonably cooperate in correcting any bank or other third-party errors and shall not be relieved of its payment responsibilities because of such errors.
- (b) Except as expressly provided otherwise herein or under any Applicable Law, Utility shall be required to pay all expenses incurred by it in connection with its activities under this Agreement (including any fees to and disbursements by accountants, counsel, or any other person, any taxes, fees, surcharges or levies imposed on Utility, and any expenses incurred in connection with reports to be provided hereunder) out of the compensation paid to it pursuant to this Section 7, and Utility shall not be entitled to any extra payment or reimbursement therefor. Notwithstanding anything to the contrary above, if and to the extent any additional taxes (excluding taxes on Utility's income), fees or charges are imposed on Utility due solely to Utility's performance of Services hereunder with respect to DWR Power and DWR Charges (such as franchise fees or taxes on DWR Power, the State of California electric energy surcharge, local utility user taxes, or Commission fees), to the extent these taxes, fees, or charges are not already included in Utility's rates and Utility has not been reimbursed therefor and is not authorized to seek reimbursement from Customers therefor, DWR shall reimburse Utility therefor as "Additional Charges" in accordance with Section 7.2.

7.4. Interest

Except as provided in Sections 5.3 or 5.4, any Delinquent Payment under this Agreement (whether or not a regularly scheduled payment) shall bear interest at the Late Payment Rate.

Section 8. Records; Audit Rights; Annual Certification.

8.1. Records.

Utility shall maintain accurate records and accounts relating to DWR Charges in sufficient detail to permit recordation of DWR Charges billed to Customers and DWR Revenues remitted by Utility to DWR. Utility shall provide to DWR and its Assign(s) access to such records. Access shall be afforded without charge, upon reasonable request made pursuant to Section 8.2. Access shall be afforded only during Business Hours and in such a manner so as not to interfere unreasonably with Utility's normal operations. Utility shall not treat DWR Revenues as income or assets of the Utility or any affiliate for any tax, financial reporting or regulatory purposes, and the financial books or records of Utility and affiliates shall be maintained in a manner consistent with the absolute ownership of DWR Revenues by DWR and Utility's holding of DWR Revenues in trust for DWR (whether or not held together with other monies).

8.2. Audit Rights.

- (a) Upon 30 calendar days' prior written notice, DWR may request an audit, conducted by DWR or its agents (at DWR's expense), of Utility's records and procedures, which shall be limited to records and procedures containing information bearing upon: (i) DWR Charges being billed to Customers by Utility (and Customer payments of DWR Charges); (ii) fees to Utility for Services provided by Utility pursuant to this Agreement; (iii) Utility's performance of its obligations under this Agreement; (iv) allocation of DWR Power pursuant hereto or Applicable Law; (v) projection or calculation of DWR's revenue requirements as described in Sections 80110 and 80134 of the California Water Code from time to time; and (vi) such other matters as may be permitted by Applicable Commission Orders, Applicable Tariffs or as DWR or its Assign(s) may reasonably request. The audit shall be conducted during Business Hours without interference with Utility's normal operations, and in compliance with Utility's security procedures.
- (b) As provided in the Act, the State of California Bureau of State Audits (the "Bureau") shall conduct a financial and performance audit of DWR's implementation of Division 27 (commencing with Section 80000) of the California Water Code, such audit to be completed prior to December 31, 2001, and the Bureau shall issue a final report on or before March 31, 2003. In addition, as provided in Section 8546.7 of the California Government Code,

Utility agrees that, pursuant to this Section 8.2, DWR or the State of California Department of General Services, the Bureau, or their designated representative (“DWR’s Agent”) shall have the right to review and to copy (at DWR’s expense) any non-confidential records and supporting documentation pertaining to the performance of this Agreement and to conduct an on-site review of any Confidential Information pursuant to Sections 8.3 and 8.8 hereof. Utility agrees to maintain such records for such possible audit for three years after final Remittance to DWR. Utility agrees to allow such auditor(s) access to such records during Business Hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Utility agrees to include a similar right for DWR or DWR’s Agent to audit records and interview staff in any contract between Utility and a subcontractor related to performance of this Agreement.

8.3. Confidentiality.

Materials reviewed by either Party or its agents in the course of an audit may contain Confidential Information subject to Section 6 above. The use of all materials provided to DWR or Utility or their agents, as the case may be pursuant to this Section 8, shall comply with the provisions in Section 6 and shall be limited to use in conjunction with the conduct of the audit and preparation of a report for appropriate distribution of the results of the audit consistent with Applicable Law.

8.4. Annual Reports.

At least annually, Utility shall cause a firm of independent certified public accountants (which may provide other services to Utility) to prepare, and Utility will deliver to DWR and its Assign(s), a report addressed to Utility (which may be included as part of Utility’s customary auditing activities), for the information and use of DWR, to the effect that such firm has performed certain procedures (the scope of which shall be agreed upon with DWR) in connection with Utility’s compliance with its obligations under this Agreement during the preceding year, identifying the results of such procedures and including any exceptions noted. Utility will deliver a copy of each report prepared hereunder to the Commission (at the address specified in section 14.14) at the same time it delivers each such report to DWR.

8.5. Annual Certifications.

At least annually, Utility will deliver to DWR, with a copy to the Commission, a certificate of an authorized officer certifying that to the best of such officer’s knowledge, after a review of Utility’s performance under this Agreement, Utility has fulfilled its obligations under this Agreement in all material respects and is in compliance herewith in all material respects.

8.6. Additional Applicable Laws.

Each Party shall make an effort to promptly notify the other Party in writing to the extent such Party becomes aware of any new Applicable Laws or changes (or proposed changes) in Applicable Tariffs hereafter enacted, adopted or promulgated that may have a material adverse effect on either Party's ability to perform its duties under this Agreement. A Party's failure to so notify the other Party pursuant to this Section 8.6 will not constitute a material breach of this Agreement, and will not give rise to any right to terminate this Agreement or cause either Party to incur any liability to the other Party or any third party.

8.7. Other Information.

Upon the reasonable request of DWR or its Assign(s), Utility shall provide to the Commission and to DWR or its Assign(s) any public financial information in respect of the Utility applicable to Services provided by Utility under this Agreement, or any material information regarding the sale of DWR Power, to the extent such information is reasonably available to Utility, which (i) is reasonably necessary and permitted by Applicable Law to monitor the performance by Utility hereunder, or (ii) otherwise relates to the exercise of DWR's rights or the discharge of DWR's duties under this Agreement or any Applicable Law. In particular, but without limiting the foregoing, Utility shall provide to DWR, with a copy to the Commission, any such information that is necessary or useful to calculate DWR's revenue requirements (as described in Sections 80110 and 80134 of the California Water Code) or DWR Charges.

8.8. Customer Confidentiality.

Nothing in this Section 8 shall affect the obligation of Utility to observe any Applicable Law prohibiting disclosure of information regarding Customers, and the failure of Utility to provide access to such information as a result of such obligation shall not constitute a breach of this Section 8 or this Agreement.

Section 9. Representations and Warranties.

- (a) Each person executing this Agreement for the respective Parties expressly represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement.
- (b) Each Party represents and warrants that it has the full power and authority to execute and deliver this Agreement and to perform its terms, that execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate or other action by such Party, and that this Agreement constitutes such Party's legal, valid and binding obligation, enforceable against such Party in accordance with its terms.

Section 10. Amendment Upon Changed Circumstances.

- (a) The Parties acknowledge that compliance with any Commission decision, legislative action or other governmental action (whether issued before or after the Effective Date of this Agreement) affecting the operation of this Agreement, including but not limited to (i) dissolution of the ISO, (ii) changes in the ISO market structure, (iii) a decision regarding the “Fixed Department of Water Resources Set-Aside” as such term is defined in Section 360.5 of the California Public Utilities Code, or (iv) the establishment of other Governmental Programs, may require that amendment(s) be made to this Agreement. The Parties therefore agree that if either Party reasonably determines that such a decision or action would materially affect the Services to be provided hereunder or the reasonable costs thereof, then upon the issuance of such decision or the approval of such action (unless and until it is stayed), the Parties will negotiate the amendment(s) to this Agreement that is (or are) appropriate in order to effectuate the required changes in Services to be provided or the reimbursement thereof. Notwithstanding Section 5.4, if the Parties are unable to reach agreement on such amendments within 60 days after the issuance of such decision or approval of such action, either Party may, in the exercise of its sole discretion, submit the disagreement to the Commission for proposed resolution, in accordance with Applicable Law. Nothing herein shall preclude either Party from challenging the decision or action which such Party deems may adversely affect its interests in any appropriate forum of the Party’s choosing.
- (b) The Parties acknowledge that this Agreement has not been reviewed by the rating agencies which are rating DWR's bonds. The Parties agree that, if the rating agencies request changes to this Agreement which the Parties reasonably determine are necessary or appropriate, the Parties will negotiate to amend this Agreement to accommodate the rating agency requests and will cooperate in obtaining any required approvals of the Commission or other entities for such amendments.
- (c) The Parties acknowledge that this Agreement shall be modified to implement the California Governor’s Executive Order D-39-01, dated June 9, 2001, concerning load curtailment programs. Therefore, the Parties agree to negotiate an amendment to this Agreement and to cooperate in obtaining any required approvals of the Commission or other entity for such amendment.

Section 11. Data Retention.

All data associated with the provision and receipt of services pursuant to this Agreement shall be maintained for the greater of (a) the retention time required by Applicable Law or Applicable Tariffs for maintaining such information, or (b) three years.

Section 12. Indemnity.

Utility and, to the extent allowed under Applicable Law, DWR (each, the “Indemnifying Party”) shall defend, indemnify, and hold the other Party, together with its affiliates, and each of their respective officers, agents, employees, assigns and successors in interest (collectively, the “Indemnified Party”), harmless from and against all claims, losses, demands, actions and expenses, damages and liabilities of any nature whatsoever (collectively “Claims”) with respect to the acts or omissions of the Indemnifying Party or its officers, agents, contractors and employees or with respect to Indemnifying Party’s performance of its obligations under this Agreement. Notwithstanding the above, the provisions of this Section 12 shall not apply to any Claims to the extent they involve the negligence, gross negligence, recklessness, willful misconduct or breach of this Agreement by either Indemnified Party. Each Indemnified Party shall bear its own attorneys’ fees and costs under this Section 12. The Indemnifying Party’s obligations under this Section 12 shall survive termination of this Agreement. This Section 12 notwithstanding, DWR makes no representation that it has the express or implied legal authority to perform any obligation under this Section 12.

Section 13. Limitations on Liability.

13.1. Consequential Damages.

In no event will either Party be liable to the other Party for any indirect, special, exemplary, incidental, punitive, or consequential damages under any theory. Nothing in this Section 13.1 shall limit either Party’s rights as provided in Section 12 above.

13.2. Limited Obligations of DWR and Utility.

DWR agrees that it will be liable for all amounts owing to Utility for the Services hereunder, irrespective of (a) any Customer’s failure to make full and timely payments owed for DWR Power, or (b) Utility’s rights under Sections 4.3 and 7.2 to deduct certain amounts in calculating Remittances owing by Utility to DWR under Attachment B. Utility will not be required at any time to advance or pay any of its own funds in the fulfillment of its responsibilities hereunder with respect to DWR Charges, except to the extent provided otherwise in Attachments B and H hereto. Any amounts payable by DWR under this Agreement shall be payable solely from moneys on deposit in the Department of Water Resources Electric Power Fund established pursuant to Section 80200 of the California Water Code (the “Fund”). Neither the full faith and credit nor the taxing power of the State of California are or may be pledged for any payment under this Agreement. Revenues and assets of the State Water Resources Development System are not available to make payments under this Agreement. If moneys on deposit in the Fund are insufficient to pay all amounts payable by DWR under this Agreement, or if DWR has reason to believe such funds may become insufficient to pay all amounts payable by DWR under this Agreement, DWR shall diligently pursue an increase to its revenue requirements as

permitted under the Act from the appropriate Governmental Authority as soon as practicable.

Section 14. Miscellaneous.

14.1. Independent Contractor.

Utility and its agents and employees shall perform their obligations under this Agreement as independent contractors and not as officers or employees of the State of California. Notwithstanding the above, Utility shall act as the agent of DWR in billing and collecting DWR Charges hereunder, as provided in the Act and Section 80106 of the California Water Code.

14.2. Remedies Cumulative.

Except as otherwise provided in this Agreement, all rights of termination, cancellation, or other remedies in this Agreement are cumulative. Use of any remedy shall not preclude any other remedy available under this Agreement.

14.3. Assignment.

- (a) Except as provided in paragraphs (b), (c) and (d) below, neither Party shall assign or otherwise dispose of this Agreement, its right, title or interest herein or any part hereof to any entity, without the prior written consent of the other Party. No assignment of this Agreement shall relieve the assigning Party of any of its obligations under this Agreement until such obligations have been assumed by the assignee. When duly assigned in accordance with this Section 14.3(a) and when accepted by the assignee, this Agreement shall be binding upon and shall inure to the benefit of the assignee. Any assignment in violation of this Section 14.3(a) shall be void.
- (b) Notwithstanding the provisions of this Section 14.3, Utility may delegate its duties under this Agreement to an agent or subcontractor, provided that Utility shall remain fully responsible for performance of any delegated duties and shall provide DWR with 30 calendar days' prior written notice of any such delegation, and further provided that such delegation does not, in the sole discretion of DWR, materially adversely affect DWR's or its Assigns' interests hereunder.
- (c) Utility acknowledges and agrees that DWR may assign or pledge its rights to receive performance (including payment of Remittances) hereunder to a trustee or another party ("Assign(s)") in order to secure DWR's obligations under its bonds (as that term is defined in the Act), and any such Assign shall be a third party beneficiary of this Agreement; provided, however, that this authority to assign or pledge rights to receive performance hereunder shall in no event extend to any person or entity that sells power or other goods or

services to DWR. Notwithstanding the immediately preceding sentence, DWR may assign or pledge its rights to receive Remittances hereunder to another party in order to secure DWR's other obligations under the Act.

- (d) Any person (i) into which Utility may be merged or consolidated, (ii) which may result from any merger or consolidation to which Utility shall be a party or (iii) which may succeed to the properties and assets of Utility substantially as a whole, which person in any of the foregoing cases executes an agreement of assumption to perform every obligation of the Utility hereunder, shall be the successor to Utility under this Agreement without further act on the part of any of the Parties to this Agreement; provided, however, that Utility shall have delivered to DWR and its Assign(s) an opinion of counsel reasonably acceptable to DWR stating that such consolidation, merger or succession and such agreement of assumption complies with this Section 14.3(d) and that all of Utility's obligations hereunder have been validly assumed and are binding on any such successor or assign.
- (e) Notwithstanding anything to the contrary herein, DWR's rights and obligations hereunder shall be transferred, without any action or consent of either Party hereto, to any entity created by the State legislature which is required under Applicable Law to assume the rights and obligations of DWR under Division 27 of the California Water Code.

14.4. Force Majeure.

Neither Party shall be liable for any delay or failure in performance of any part of this Agreement (including the obligation to remit money at the times specified herein) from any cause beyond its reasonable control, including but not limited to, unusually severe weather, flood, fire, lightning, epidemic, quarantine restriction, war, sabotage, act of a public enemy, earthquake, insurrection, riot, civil disturbance, strike, restraint by court order or Government Authority, or any combination of these causes, which by the exercise of due diligence and foresight such Party could not reasonably have been expected to avoid and which by the exercise of due diligence is unable to overcome. An Insolvency Event shall not constitute *force majeure*. Notwithstanding anything to the contrary above, each Party's obligation to pay money hereunder shall continue to the extent such Party is able to make such payment, and any amounts owed by Utility hereunder and received by Utility shall be held in trust for DWR (whether or not held together with other monies) and remitted to DWR as soon as reasonably practicable. Any amounts paid or remitted pursuant to this Section 14.4 shall not bear interest which would otherwise accrue under Section 7.

14.5. Severability.

In the event that any one or more of the provisions of this Agreement shall for any reason be held to be unenforceable in any respect under Applicable Law, such

unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such unenforceable provision or provisions had never been contained herein.

14.6. Third-Party Beneficiaries.

The provisions of this Agreement are exclusively for the benefit of the Parties and any permitted assignee of either Party.

14.7. Governing Law.

This Agreement shall be interpreted, governed and construed under the laws of the State of California as if executed and performed wholly within the State of California.

14.8. Multiple Counterparts.

This Agreement may be executed in multiple counterparts, each of which shall be an original.

14.9. Section Headings.

Section and paragraph headings appearing in this Agreement are inserted for convenience only and shall not be construed as interpretations of text.

14.10. Entire Agreement; Applicable Law.

- (a) This Agreement, including all attachments and agreements contemplated herein, contains the entire agreement and understanding between the Parties as to the subject matter of this Agreement, and merges and supersedes all prior oral or written agreements, commitments, representations and discussions between the Parties or made to third parties regarding the subject matter of this Agreement, except that this Agreement and the Parties' obligations hereunder shall be subject in all cases to the provisions of Applicable Law, and except that this Agreement shall have no effect on the terms of any agreement between DWR and Utility, as modified from time to time after the Execution Date hereof, referenced in Attachment E hereto. Furthermore, no default under any such other agreement between the Parties shall constitute a default hereunder, and each party hereby waives any right to set off any amounts owing to it under any such other agreement against any amounts owing hereunder.
- (b) Should a conflict exist between the provisions contained in this Agreement (including the attachments hereto) and either Applicable Law or the 20/20 Program, the provisions of Applicable Law or the 20/20 Program, as the case may be, shall govern. The General Terms and Conditions contained in Attachment D are hereby incorporated by reference. In the event of a conflict

between the provisions of this Agreement and any attachment hereto (including Service Attachment 1), then the provisions of the attachment shall govern. Nothing in this subsection (b) shall relieve the Parties from complying with their obligations under Section 10 to make amendments to this Agreement to reflect changed circumstances.

14.11. Amendments.

No amendment, modification, or supplement to this Agreement shall be effective unless it is in writing and signed by the authorized representatives of both Parties and approved as required, and by reference incorporates this Agreement and identifies the specific portions that are amended, modified, or supplemented or indicates that the material is new. No oral understanding or agreement not incorporated in this Agreement is binding on either of the Parties.

14.12. Waivers.

None of the provisions of this Agreement shall be considered waived by either Party unless the Party against whom such waiver is claimed gives such waiver in writing. The failure of either Party to insist in any one or more instances upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights hereunder shall not be construed as a waiver of any such provisions or the relinquishment of any such rights for the future, but the same shall continue and remain in full force and effect. Waiver by either Party of any default by the other Party shall not be deemed a waiver of any other default.

14.13. Construction.

This Agreement and the provisions contained herein shall not be construed or interpreted for or against any Party because that Party drafted or caused its legal representative to draft any of such provisions.

14.14. Notices and Demands.

- (a) Except as otherwise provided under this Agreement, all notices, demands, or requests pertaining to this Agreement shall be in writing and shall be deemed to have been given (i) on the date delivered in person, (ii) on the date when sent by facsimile (with receipt confirmed by telephone by the intended recipient or his or her authorized representative) or electronic transmission (with receipt confirmed telephonically or electronically by the intended recipient or his or her authorized representative) or by special messenger, or (iii) 72 hours following delivery to a United States post office when sent by certified or registered United States mail postage prepaid, and addressed as set forth below:

Utility: Pacific Gas and Electric Company
P.O. Box 7442
San Francisco, California 94120

Attn: Kent M. Harvey
Senior Vice President – Treasurer and Chief Financial Officer
Telephone: (415) 973-6333
Facsimile: (415) 973-6942
Email: KMH5@pge.com

DWR: State of California
The Resources Agency
Department of Water Resources
California Energy Resources Scheduling Division
3310 El Camino Avenue, Suite 120
Sacramento, California 95821

Attn: Raymond D. Hart
Deputy Director
Telephone: (916) 574-2733
Facsimile: (916) 574-2512
Email: hartr@water.ca.gov

- (b) Each Party shall be entitled to specify as its proper address any other address in the United States, or specify any change to the above information, upon written notice to the other Party complying with this Section 14.14.
- (c) Each Party shall designate on Attachment A the person(s) to be contacted with respect to specific operational matters. Each Party shall be entitled to specify any change to such person(s) upon written notice to the other Party complying with this Section 14.14.
- (d) Copies of documents required by this Agreement to be delivered to the Commission shall be delivered in accordance with this Section 14.14 and shall be addressed as set forth below:

California Public Utilities Commission
505 Van Ness Avenue, 4th Floor
San Francisco, California 94102

Attn: Paul Clanon
Energy Division Director
Telephone: (415) 703-2237
Facsimile: (415) 703-2200
Email: pac@cpuc.ca.gov

14.15. Good Faith.

Each party hereby covenants that it shall perform all its actions, obligations and duties in connection with this Agreement in good faith.

14.16. Approval.

This Agreement shall be effective when it has been executed by both Parties and approved by the Commission and by the Bankruptcy Court, to the extent such approval is deemed necessary by Utility. Except as expressly provided otherwise herein, neither Party may commence performance hereunder until such date. Any delay in the commencement of performance hereunder as a consequence of waiting for such approval(s) shall not be a breach or default under this Agreement.

DWR has determined, pursuant to Section 80014(b) of the California Water Code, that application of certain provisions of the Government Code and Public Contract Code applicable to State contracts, including but not limited to advertising and competitive bidding requirements and prompt payment requirements, would be detrimental to accomplishing the purposes of Division 27 (commencing with Section 80000) of the California Water Code and that such provisions and requirements are therefore not applicable to or incorporated in this Agreement.

14.17. Attachments.

The following attachments are incorporated in this Agreement:

Service Attachment 1 – Consolidated Utility Billing Services

Attachment A – Representatives and Contacts

Attachment B – Remittance Methodology

Attachment C – Sample Daily and Monthly Reports

Attachment D – General Terms and Conditions

Attachment E – Additional Provisions

Attachment F – Calculation Methodology for Reduced Remittances Pursuant
to 20/20 Program

Attachment G – Fee Schedule

Attachment H – [Not Applicable]

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IN WITNESS WHEREOF, the Parties have executed this Servicing Agreement on the date or dates indicated below, to be effective as of the Effective Date.

**CALIFORNIA STATE DEPARTMENT
OF WATER RESOURCES**

**PACIFIC GAS AND ELECTRIC
COMPANY**

By: *RDH*

By: _____

Name: Raymond D. Hart

Name: _____

Title: Deputy Director

Title: _____

Date: June 22, 2001

Date: _____

IN WITNESS WHEREOF, the Parties have executed this Servicing Agreement on the date or dates indicated below, to be effective as of the Effective Date.

**CALIFORNIA STATE DEPARTMENT
OF WATER RESOURCES**

**PACIFIC GAS AND ELECTRIC
COMPANY**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

SERVICE ATTACHMENT 1
PACIFIC GAS AND ELECTRIC COMPANY
CONSOLIDATED UTILITY BILLING SERVICES

Section	Title	Page
Section 1	Establishment and Maintenance of Consolidated Utility Billing	SA 1-2
Section 2	Customer Billings Procedures	SA 1-2
Section 3	Customer Payments	SA 1-4
Section 4	Collection and Nonpayment	SA 1-4
Section 5	Taxes and Fees Service	SA 1-4

SERVICE ATTACHMENT 1
PACIFIC GAS AND ELECTRIC COMPANY
CONSOLIDATED UTILITY BILLING SERVICES

Section 1. Establishment and Maintenance of Consolidated Utility Billing.

Under Consolidated Utility Billing, Utility will include the DWR Charges with its Utility Charges on the Customer's Bill.

Section 2. Customer Billing Procedures.

2.1. Compliance with Metering Standards.

- (a) Utility shall comply with all metering standards pursuant to Applicable Tariffs.
- (b) Utility shall read and validate data from meters, and edit and estimate such data, under the terms of Applicable Tariffs.
- (c) Utility shall maintain, store and provide current and historical meter and usage data as required by Applicable Tariffs.

2.2. Presentation of DWR Charges on Consolidated Utility Bill.

- (a) Except as otherwise required by Applicable Law and Applicable Tariffs, Utility shall present a separate line item for the DWR Charges on all Consolidated Utility Bills in the manner and at the time required by Applicable Law and Applicable Tariffs.
- (b) Notwithstanding subsection (a) above, the Utility may change the manner of bill presentation of DWR Charges upon the agreement of DWR or at the request of DWR and upon agreement by the Utility. Such agreement by DWR or Utility is not to be unreasonably withheld.
- (c) Notwithstanding subsections (a) and (b) above, no change shall be made to Consolidated Utility Bill formats without the approval of the Commission, if the Commission's approval is required under Applicable Law and Applicable Tariffs.

2.3. Billing Costs.

Utility shall be reimbursed for the reasonable costs of the Billing Services it performs for DWR under this Agreement, except for those costs that would have been incurred in providing Billing Services for Customers in the absence of this Agreement. The Parties agree that the Commission has jurisdiction to address any dispute concerning

the reasonableness of the costs of Billing Services charged to DWR under this Agreement.

2.4. Adjustments to DWR Charges.

Utility will resolve all disputes with Customers relating to DWR Charges consistent with Applicable Tariffs and prevailing industry standards. Utility will not waive any late payment fee or modify the terms of payment of any amounts payable by Customer unless such action is consistent with the action taken with respect to its own Charges and Applicable Tariffs. In the event that DWR is entitled by Applicable Law to collect Exit Fees as a component of DWR Charges, this Agreement may be amended to facilitate the calculation and collection of such Exit Fees, and any such amendment shall be submitted to the Commission. For purposes of this Section 2.4, "Exit Fee" means any fee that DWR is entitled, under Applicable Law, to assess and collect from a Customer in the event such Customer ceases purchasing DWR Power.

2.5. Format of Consolidated Utility Bills.

Utility shall conform to such requirements in respect of the format, structure and text of Consolidated Utility Bills as Applicable Law and Applicable Tariffs shall from time to time prescribe. Utility shall, subject to the requirements of Sections 1 and 2 of this Service Attachment 1, determine the format and text of Consolidated Utility Bills in accordance with its reasonable business judgment, and its policies and practices with respect to its own charges.

2.6. Customer Notices.

- (a) If DWR Charges are revised at any time, Utility shall, to the extent and in the manner and timeframe required by Applicable Law, provide Customers with notice announcing such revised DWR Charges. Such notice shall, as appropriate, include publication, inserts to or in the text of the bills or on the reverse side of bills delivered to Customers, and/or such other means as Utility may from time to time use to communicate with its customers. The format of any such notice shall be determined by the mutual agreement of the Parties, subject to approval by the Commission's public advisor.
- (b) In addition, at least once each year, to the extent permitted by Applicable Law, Utility shall cause to be prepared and delivered to Customers a notice stating, in effect, that DWR Power and DWR Charges are owned by DWR and not Utility. Such notice shall be included, in a manner and format to be agreed upon by the Parties, subject to approval by the Commission's public advisor, either as an insert to or in the text of the bills or on the reverse side of bills delivered to such Customers or shall be delivered to Customers by electronic means or such other means as Utility may from time to time use to communicate with its Customers.

2.7. Delivery.

Utility shall deliver all Consolidated Utility Bills (i) by United States Mail in such class or classes as are consistent with policies and practices followed by Utility with respect to its own charges or (ii) by any other means, whether electronic or otherwise, that Utility may from time to time use to present its own charges to its customers. In the case of Consolidated Utility Billing Service, Utility shall pay from its own funds all costs of issuance and delivery of Consolidated Utility Bills, including but not limited to printing and postage costs as the same may increase or decrease from time to time, except to the extent that the presentation of DWR Charges and any associated bill messages or notices (including, without limitation, bill inserts and published notices) materially increase the costs in which case such increase in costs shall be borne solely by DWR. To the extent practicable, Utility agrees to give DWR seven calendar days prior written notice of any such additional costs. Any such increased costs shall be invoiced to DWR as Additional Charges and shall be subject to the provisions of Section 7 of the Agreement.

Section 3. Customer Payments.

Utility shall permit Customers to pay DWR Charges through any of the payment options then offered by Utility to Customers for payment of Utility Charges appearing on the Consolidated Utility Bill. Utility shall not permit Customers to direct how partial payments of balances due on Consolidated Utility Bills will be applied.

Section 4. Collection and Nonpayment.

4.1. Collection of DWR Charges.

Utility will collect DWR Charges in accordance with its standard practices, and will notify Customers of amounts overdue for DWR Charges in accordance with such practices. Such collection practices shall conform to all requirements of Applicable Law and Applicable Tariffs. Utility will post all payments for DWR Charges as promptly as practicable, but in no case less promptly than Utility posts payments for Utility Charges.

4.2. Termination of Customer's Electrical Service.

Utility shall adhere to and carry out disconnection policies in accordance with Applicable Law.

Section 5. Taxes and Fees Service.

Subject to Section 7.3, Utility will collect and remit to the various authorities the taxes and fees assessed to Customers on the DWR Charges.

ATTACHMENT A
PACIFIC GAS AND ELECTRIC COMPANY
REPRESENTATIVES AND CONTACTS

A. Parties' Representatives:

Utility Representative:

Mr. Kent M. Harvey
Senior Vice President - Treasurer and Chief Financial Officer
Pacific Gas and Electric Company
P.O. Box 7442
San Francisco, CA 94120

Phone: (415) 973-6333
Facsimile: (415) 973-6942
Email: KMH5@pge.com

DWR Representative:

State of California
The Resources Agency
Department of Water Resources
California Energy Resources Scheduling Division
3310 El Camino Avenue, Suite 120
Sacramento, California 95821

Attn: Viju Patel
Energy Advisor
Telephone: (916) 574-0339
Facsimile: (916) 574-2512
Email: vpatel@water.ca.gov

B. Contact Persons:

The Parties shall make the following contact person(s) available with respect to the operational matters described below:

1. Billing Services:

Utility contacts:

For billing operations:

Mr. Russell E. Jorgensen
Director - Customer Revenue Transactions
Pacific Gas and Electric Company
P.O. Box 7442
San Francisco, CA 94120

Phone: (415) 973-7252
Facsimile: (415) 973-0939
Email: REJ4@pge.com

For remittances:

Ms. Melissa K. Wikle
Director - Corporate Accounting
Pacific Gas and Electric Company
P.O. Box 7442
San Francisco, CA 94120

Phone: (415) 973-6236
Facsimile: (415) 973-7463
Email: MKW6@pge.com

DWR contact:

State of California
The Resources Agency
Department of Water Resources
California Energy Resources Scheduling Division
3310 El Camino Avenue, Suite 120
Sacramento, California 95821

Attn: Jim Olson, Deputy Comptroller
Chief of Financial Management and Reporting
Telephone: (916) 574-1297
Facsimile: (916) 574-0301
Email: jolson@water.ca.gov

2. Scheduling, delivery and transmission:

Utility contact:

Mr. Brian E. Thurston
Manager - Power Generation Portfolio Management
Pacific Gas and Electric Company
P.O. Box 7442
San Francisco, CA 94120

Phone: (415) 973-3744
Facsimile: (415) 973-7668
Email: BET5@pge.com

DWR contact:

State of California
The Resources Agency
Department of Water Resources
California Energy Resources Scheduling Division
3310 El Camino Avenue, Suite 120
Sacramento, California 95821

Attn: Susan Lee, Principal HEP Utility Engineer
Chief of Energy Scheduling and Trading
Telephone: (916) 574-1304
Facsimile: (916) 574-0301
Email: slee@water.ca.gov

ATTACHMENT B

PACIFIC GAS AND ELECTRIC COMPANY

REMITTANCE METHODOLOGY

1. Calculation Of Daily Remittance Amount. As soon as practicable following the Effective Date, and prior to the beginning of each calendar month thereafter during the Term, Utility shall forecast the amount of DWR Charges that Utility expects to receive during either (i) the period of time between the Effective Date and the last day of the calendar month in which the Effective Date occurs ("Initial Monthly Period") or (ii) each subsequent calendar month of the Term, as the case may be (each such forecast a "Forecast Collection"). Except to the extent otherwise agreed by the Parties, the Forecast Collection shall be an amount equal to the Estimated DWR Collections (as described in Section 3 below) for the most recent calendar month for which such information is available, adjusted for the number of billing days. The "Daily Remittance Amount" shall be an amount equal to the Forecast Collections for the relevant period, divided by the number of Business Days in the relevant period. If for any period of six consecutive months, the aggregate Reconciliation Amount (defined below) for such period is a positive or negative number greater than 10% of Estimated DWR Collections for such period, DWR and Utility agree to negotiate changes to the Forecast Collection methodology described in this Section 1 that are reasonably designed to reduce the Reconciliation Amount as much as possible for future months. If either party believes such negotiations to be unsuccessful, either Party may, in addition to any other remedies available to the Party, submit the matter to the Commission for resolution.

2. Collection Curve; Interim Collection Curve. To calculate Estimated DWR Collections, Utility will use a single Collections Curve in the form attached hereto as Annex A. After the Effective Date and at any time during the Term, but no more frequently than once every calendar year, either party may, at its own expense, do a study of payment and collection patterns and develop a new Collections Curve. In the event DWR elects to develop a new Collections Curve, Utility shall cooperate in such development, provided that Utility shall be entitled to collect the reasonable costs of such cooperation as an Additional Charge. A study of payment and collection patterns and the development of a new Collections Curve, if undertaken pursuant to this Section 2, shall be done as follows:

a) a Collections Curve will be developed for all Customers, based upon a random sample of no fewer than 500 Customer bills;

b) to derive the Collections Curve, there shall be recorded, for a given month, the percentage of the billed revenue that is received in each of the following 6 months or until the application of write-offs, whichever is earlier;

c) to the extent that Utility collects late payment interest charges for payments rendered after the due date for the relevant payments, such late payment interest charges will be reflected in the Collections Curve as revenue received on the originally-billed amounts.

In addition to the process described above allowing for annual revisions to the Collections Curve, Utility may develop and use in its calculation of Estimated DWR Collections an “Interim Collections Curve,” representing Utility’s determination of anticipated collections from Customers for Charges, if the funds received by Utility from Customers for Charges for any period of 10 consecutive Business Days are less than 80% of the aggregate amount that Utility expected to receive from Customers for Charges for such period (based upon the then operative Collections Curve); provided, however, that the implementation of any Interim Collections Curve shall be subject to the approval of DWR which approval may not be unreasonably withheld or delayed. If Utility so implements an Interim Collections Curve, then Utility shall be entitled to use it instead of the then operative Collections Curve only until such time as the aggregate funds received from Customers for Charges since the first Business Day of the 10 Business Day period triggering the use of the Interim Collections Curve exceed the 80% threshold described above.

3. Calculation of Estimated DWR Collections. The Estimated DWR Collections shall be equal to the DWR Charges estimated (based upon the Collections Curve) to have been received for the applicable month, including any deductions or other adjustments authorized by Applicable Law or expressly permitted under the Agreement.

4. Adjustments Based on Settlement Data. After publication of the ISO settlement statement for any given date (the “Settlement Data Date”), Utility shall calculate the difference, if any, between (i) Scheduled Energy and (ii) DWR Power actually reflected in ISO settlement statement (exclusive of Imbalance Energy). After 10 days following the Settlement Data Date, any such difference shall be accounted for as an increase or reduction of the billed DWR Charges for the next following month and shall be itemized for each Settlement Data Date. The adjustment described in this section shall be made concerning DWR Power for which the ISO has published settlement statements that have not been accounted for in prior Monthly Reconciliation Reports.

5. Monthly Reconciliation of Forecast Collections. On the Business Day immediately following the 20th day of each month after the Initial Monthly Period (each a “Reconciliation Date”), Utility will (i) subtract the Forecast Collections in the previous month from the Estimated DWR Collections from the previous month and (ii) make those adjustments pursuant to Section 4 of this Attachment B which have not been previously accounted for (the result of such calculation, the “Reconciliation Amount”). If the Reconciliation Amount is positive, the Reconciliation Amount will be remitted to DWR on the Reconciliation Date. If the Reconciliation Amount is negative, the Reconciliation Amount will be invoiced to DWR as Additional Charges in the manner set forth in Section 7 of the Agreement. If the Agreement terminates before a Reconciliation Date for which a Reconciliation Amount has not yet been calculated (which Reconciliation Amount would have been calculated had the Agreement not been terminated), the Parties' obligations with respect to such Reconciliation Amount shall survive termination. Notwithstanding Section 1.25 of the Agreement, the payment of a Reconciliation Amount to DWR in the manner set forth in this Attachment B shall not constitute a Delinquent Payment.

6. Sample Monthly Reconciliation Report. A sample Monthly Reconciliation Report is attached to this Agreement as Annex B to this Attachment B. It is for illustrative purposes only and does not reflect any actual payments or adjustments for any period.

7. Allocation of DWR Power. Under Section 2.4 of the Agreement, DWR Power will be allocated pursuant to the Act, other Applicable Law, and Applicable Tariffs. The parties agree that currently, the Act and Applicable Law require Utility to calculate a daily percentage equal to the ratio of DWR Power to total bundled service energy provided to Customers and apply such percentage to all Customers in determining the percentage of DWR Power consumed on such day by any Customer or class of Customers.

8. Transition Period. On or prior to the Effective Date, Utility shall transition from use of the interim remittance methodologies described in Decision 01-03-081, adopted by the Commission on March 27, 2001, and Decision 01-05-064, adopted by the Commission on May 15, 2001 (collectively the "Interim Remittance Methodologies"), to use of the more precise remittance methodology ("More Precise Remittance Methodology") set forth in this Agreement and this Attachment B. This transition will include the continuation of the Interim Remittance Methodologies after the Effective Date as long as necessary or appropriate (the "Transition Period") to account for DWR Power provided to Customers prior to the Effective Date. Remittances during the Transition Period using the Interim Remittance Methodologies shall be made in addition to Remittances made in accordance with the More Precise Remittance Methodology set forth herein. As soon as practicable following the last day that the Interim Remittance Methodologies are applied, but not later than 210 days after the Effective Date, Utility will submit to DWR a reconciliation calculation, in form and substance reasonably acceptable to DWR, comparing (i) all amounts remitted to DWR pursuant to the Interim Remittance Methodologies with (ii) the amounts which would have been remitted to DWR had the More Precise Remittance Methodology been used instead. To assist Utility in making such reconciliation calculation, DWR will cooperate with Utility and supply such data that Utility reasonably requests to perform such reconciliation calculation. The adjustment to the relevant Reconciliation Amount derived from such reconciliation calculation shall be made at the next Reconciliation Date that occurs no earlier than 10 calendar days following submittal of the adjustment calculation to DWR, absent a determination by DWR of error in such calculations.

9. New Utility Systems. If Utility implements a billing, accounting and/or other information system that, in Utility's reasonable estimation, enables Utility to track, measure, and calculate actual Customer payments of Consolidated Utility Bills on a daily basis, Utility shall notify DWR of the same. Following any such notification, upon DWR's election to require Utility to remit and adjust DWR Revenues on a daily basis and in a manner generally consistent with that set forth in Annex B to this Attachment B, Utility shall make commercially reasonable efforts to comply with any such request as soon as practicable. Utility shall be entitled to recover its reasonable incremental costs of implementing such changes requested by DWR in remittance and adjustment methodologies as Additional Charges in the manner set forth in Section 7 of this Agreement. Any improvements to or replacements of Utility's systems which are undertaken for reasons which are independent of this provision shall not be considered an incremental cost under this provision.

10. Collections After Termination. Section 5.5 of the Agreement notwithstanding, and except to the extent otherwise agreed pursuant to Section 9 of or Annex B to this Attachment B, Utility shall have no obligation to pursue collection of, and no liability for failure to collect, DWR Charges after 180 calendar days following termination of the Agreement. Notwithstanding the immediately preceding sentence, Utility shall employ commercially reasonable efforts to identify and remit such identified DWR Charges to DWR that Utility receives after 180 calendar days following termination of the Agreement.

ANNEX A TO ATTACHMENT B

COLLECTIONS CURVE

[TO BE INSERTED.]

ANNEX B TO ATTACHMENT B

REMITTANCE METHODOLOGY IN EVENT OF NEW UTILITY SYSTEM

A. Daily Remittances

Payments will be collected by Utility as an agent for DWR. Payments shall be allocated and applied using Utility's payment posting priority process (described below). All partial payments to Utility will be prorated based on the payment posting priority. During Utility's nightly processing during any Business Day, payments for DWR Charges that the Utility collects on behalf of DWR will be identified and credited to DWR's account and will be transmitted on the next Business Day, by an electronic funds transfer credit to DWR for settlement. The Parties' first preference for electronic funds transfer will be by Automated Clearing House (ACH) and its secondary preference will be by wire transfer. Utility process timing will dictate which electronic funds transfer will be used. During the first 60 day start-up period, wire transfer will be used exclusively.

B. Proposed Process and Sample Timeline for DWR Automated Daily Remittance

1. Day (-19) - Customer statements are sent out.
2. Business Day 0 - Customer makes payment and payment is allocated per payment posting priority.
3. Business Day 0 - Utility's billing system identifies payments and applies DWR portion based on pre-established payment posting criteria, representing a constructive account for DWR. The parties acknowledge that payments received from Customers consist of payments to Utility and payments to DWR and that until DWR's portion is remitted to DWR, such funds will be held together by Utility. Until remitted to DWR, Utility shall hold DWR's portion of payments in trust for the benefit of DWR (whether or not held with other monies).
4. Business Day 1 - Payment is sent to DWR based on remittance schedule. DWR acknowledges delays of up to 3 Business Days may occur due to errors, system failures and other factors. DWR agrees that such delays shall not constitute a default pursuant to Section 5.2 of the Agreement provided, however, that Utility shall undertake commercially reasonable efforts to rectify any cause for such delay. Utility shall promptly notify DWR when any such delay occurs and the expected date for returning to the normal schedule. In cases where ACH electronic payment is remitted, Utility will remit to its bank on Business Day 1. DWR agrees that this payment meets Utility's remittance schedule requirements pursuant to Section 4.2 and this Attachment B.
5. Adjustments for misapplied payments, returned checks, payment transfers, and miscellaneous adjustments will be reflected in the Remittance as those adjustments are made in Utility's billing system.

C. Collection of DWR Charges

1. As permitted by Applicable Law, Utility will disconnect Customers' electric service for unpaid DWR Charges. Disconnection for DWR charges will be performed in the same manner as Utility disconnects for its own charges and consistent with applicable tariffs.
2. Responsibility for collection of any DWR Charges that remain unpaid 145 calendar days after the final statement was issued shall become the sole responsibility of DWR. However, Customer payments received by Utility after such reversion to DWR will continue to be applied on a pro-rata basis to DWR Charges for a period of no longer than 3 years after the customer's account was closed and final bill rendered by the Utility.
3. Utility may use collection agency services to recover outstanding balances on customer's closed accounts. When DWR receives benefit of such services through recovery of payments to customer accounts, Parties agree that DWR's payment remittances will be adjusted to account for the pro-rata share of collection agency fees associated with DWR's portion of recovered charges

D. Survival of Payment Obligations

1. Utility has the right but not the obligation to pursue collection of DWR Charges after 180 calendar days following the termination of this Agreement pursuant to Section 5. Provided, however, Utility may continue collection services for a period of 3 years after the customer's account was closed if prior to the termination of this Agreement the Parties reach a mutually satisfactory arrangement either to (i) reimburse Utility for its estimated reasonable costs to continue with collection and allocation activities for such period or (ii) estimate the amount of collections that are reasonably likely to be recovered, which amount (including discounts for cash flow impacts) Utility shall promptly remit to DWR in full satisfaction of its collection services.

E. Deposits Securing DWR Charges

1. In accordance with Applicable Tariffs, Utility shall collect security deposits from Customers and return those security deposits to Customers. Such security deposits will be applied pro rata to DWR Charges in the event a Customers billing account is closed with the Utility.

F. Other Operating Revenue Collected by Utility

1. DWR shall have no rights in or entitlements to charges associated with Utility's collection or payment activities, including but not limited to, returned check charge, reconnection of service charge, field assignment charge, and other service charges related to billing, payment or collections. However, pursuant to Section 6 of Service Attachment 1, late payment interest charges will be applied pro-rata to DWR Charges.

G. Payment Posting Priority

1. Priority. Utility payment posting rules will assign equal priority to Utility gas and electric energy and service charges, and DWR Charges. Payments will be prorated among all categories of unpaid disconnectible charges and DWR Charges based on the amount owing in each statement, beginning with the oldest amounts outstanding. Utility's payment posting priority enables Utility to make timely payments to Utility, DWR, and other agencies/Cities where Utility is required to collect surcharges, fees and taxes. Any non-disconnectible charges outstanding, will be paid with any remaining credit balance.

2. Payment Posting Rules.

- a. Payments will be applied to the oldest statements first.
- b. Payments will be applied on a pro-rata basis between Utility gas and electric energy/service charges in the following illustrative manner:

<u>Sample:</u>	<u>Electric</u>	<u>Gas</u>	<u>Total</u>
Bill Date 6/10/01	\$100.00	\$100.00	\$200.00
% of Total	50%	50%	100%
Payment 6/25/01	\$50.00	\$50.00	\$100.00
% of Total	50%	50%	100%

3. Proration. Within the Utility Charges shown on each statement, the payment/credit will be prorated among all unpaid charges based on the amount owing in each category in the following illustrative manner:

<u>Sample:</u>	<u>Utility</u>	<u>DWR</u>	<u>FF/Taxes</u>	<u>Total</u>
Bill Due 6/10/01	\$35.00	\$60.00	\$5.00	\$100.00
% of Total	35%	60%	5%	100%
Payment 6/25/01	\$17.50	\$30.00	\$2.50	\$50.00
% of Total	35%	60%	5%	100%

ANNEX A TO ATTACHMENT B
Pacific Gas and Electric Company
Collections Curve Description
May 2, 2001

BACKGROUND

The purpose of the Collections Curve is to display the rate at which billed energy revenues are collected from PG&E's five retail customer classes. Collections performance is expressed as a percentage of the total amount billed to the sample customer population. Collections have been adjusted for write-off using the applicable factor authorized by the California Public Utilities Commission in PG&E's most recent (1999) General Rate Case.

PG&E reads its meters and bills approximately 4.8 million customers once each month on a sequential 21-serial schedule, customers likewise remit payments on a sequential basis.

KEY PARAMETERS AND ASSUMPTIONS

- The tabulation of historical daily collections receipts used to generate the Collections Curve was derived from a sample of customer accounts billed during July 2000.
- Collections performance is assumed not to vary materially over the course of a year.
- Bills are issued on one of PG&E's 21 billing serials.
- The sample customer population represents a revenue-weighted average of PG&E's five customer classes and includes a total of 26,253 accounts. Sample size characteristics:

Customer Class	Sample Size as % of Total Class Size	Number of Accounts in Sample	Revenue Class Contribution as % of Total Revenue
Residential	0.5 %	23,221	46%
Small Commercial	0.5 %	1,803	13%
Medium Commercial	1.0 %	493	28%
Agricultural	1.0 %	470	6%
Large Commercial	25.0 %	266	8%

- The write-off factor (i.e., uncollectibles) as approved in the 1999 General Rate Case is 0.00267.
- In order to produce aggregated monthly collection data, the daily collection pattern is assumed to be the same for each day of the month and that the billed amounts for a given month are spread evenly over each day of the month.
- Credit and collection policies are approved by the CPUC. Generally, customer's charges not collected within 180 days are written off.
- The methodology used to produce the collection curve and the above parameters and assumptions are consistent with the methodology, parameters and assumptions approved for use in remitting the Trust Transfer Amount (TTA) to the Bond Trustee.

ANNEX A TO ATTACHMENT B
Pacific Gas and Electric Company
Collections Curve Description
May 2, 2001

DATA EXTRACTION AND PROCESSING

Applying the foregoing sample sizes, PG&E randomly extracts customer billing and payment data from PG&E's customer information system. A PC-based software application is then used to select customer billing dates and billing amounts for a specific calendar month.

Program logic enables the application to search the record for an exact match between the amount billed and a subsequent payment amount. Where an exact match is found, the number of days between the billing date and payment date is recorded along with the payment amount. If an exact payment match is not found, the application records the number of days between the billing date and the date of each subsequent partial payment along with the partial payment amount. The application will repeat this process until the sum of the partial payments equals or exceeds the original amount billed. The number of days between each the billing date and the date of each partial payment, along with the amount of each partial payment, are recorded separately.

Any difference between the total amount billed and the amount of the accumulative collections on "day 180" is considered uncollected.

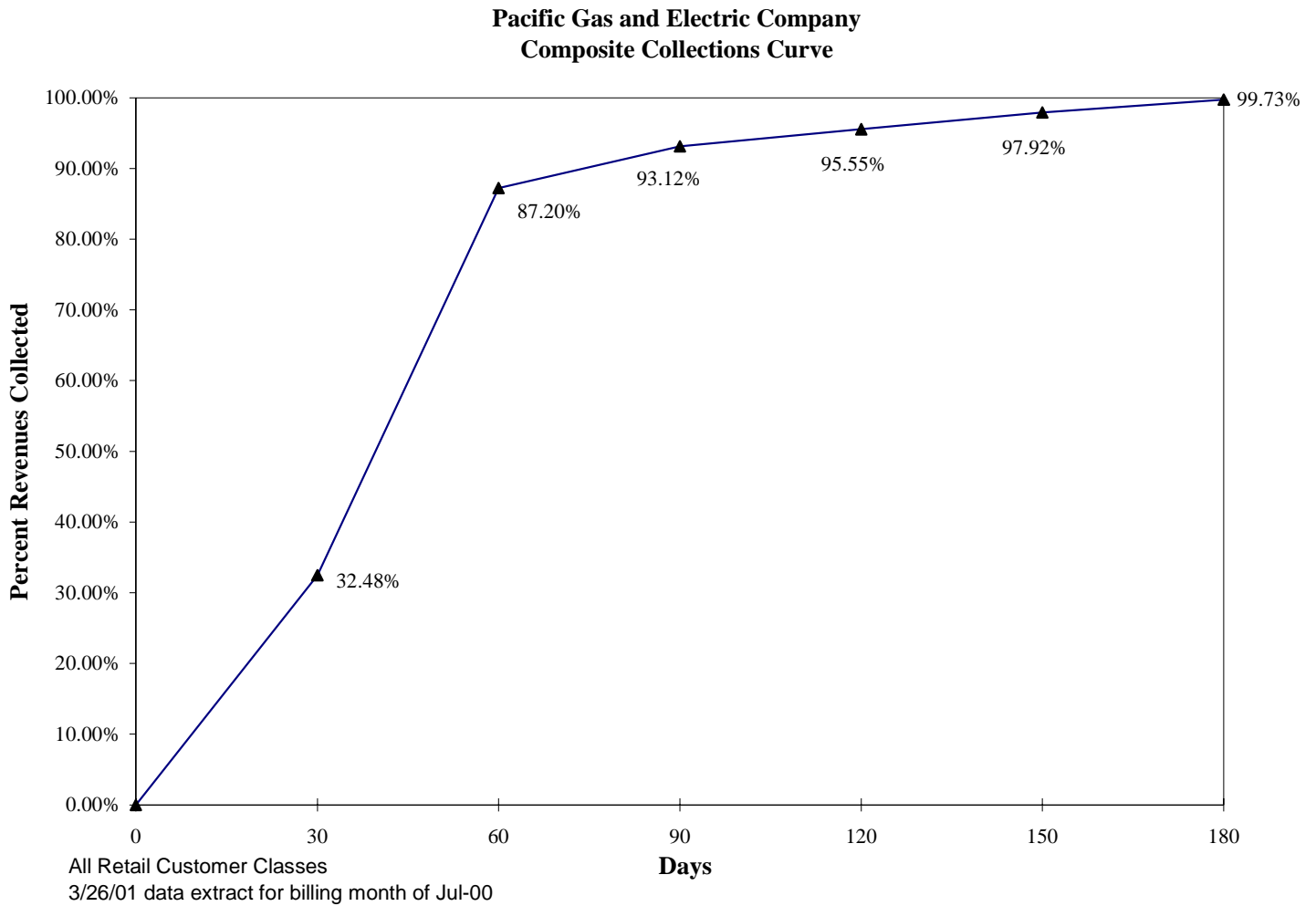
Application output data is written to a text file containing two columns; one lists days 1 through 180, the other shows the sum total of payments collected for each day.

COLLECTIONS CURVE

The Collections Curve plots data points at each of six 30-day intervals. For each day during the collection cycle, the total of daily revenue collections associated with bills issued to customers in the sample size is tabulated. In the sample population, a discrepancy was observed between the level of collections at the conclusion of the 180-day period and the expected level of collections that would result according to the Commission-approved uncollectibles factor. To address this discrepancy, the difference between expected and observed collections has been uniformly distributed over the 180 day period. To reflect PG&E's serial billing process, the percent of the amount billed is divided by 30 to simulate a daily average collection performance.

ANNEX A TO ATTACHMENT B
Pacific Gas and Electric Company
Collections Curve Description
May 2, 2001

Day	Collections Percentage	Net
0	0.00%	
30	32.48%	32.48%
60	87.20%	54.72%
90	93.12%	5.92%
120	95.55%	2.44%
150	97.92%	2.37%
180	99.73%	1.81%



ANNEX A TO ATTACHMENT B
Pacific Gas and Electric Company
Collections Curve Description
May 2, 2001

Elapsed Calendar Days	Daily Collections Percentage	Elapsed Calendar Days	Daily Collections Percentage	Elapsed Calendar Days	Daily Collections Percentage
1	0.03%	61	87.62%	121	95.63%
2	0.07%	62	87.98%	122	95.66%
3	0.14%	63	88.31%	123	95.68%
4	0.21%	64	88.63%	124	95.71%
5	0.30%	65	88.93%	125	95.73%
6	0.40%	66	89.20%	126	95.75%
7	0.52%	67	89.46%	127	95.78%
8	0.69%	68	89.71%	128	95.80%
9	0.90%	69	89.96%	129	95.82%
10	1.13%	70	90.20%	130	95.84%
11	1.44%	71	90.44%	131	95.87%
12	1.80%	72	90.67%	132	95.89%
13	2.27%	73	90.89%	133	95.91%
14	2.87%	74	91.11%	134	96.03%
15	3.68%	75	91.31%	135	96.15%
16	4.62%	76	91.50%	136	96.27%
17	5.74%	77	91.68%	137	96.39%
18	6.97%	78	91.84%	138	96.51%
19	8.31%	79	91.99%	139	96.63%
20	9.82%	80	92.13%	140	96.75%
21	11.58%	81	92.27%	141	96.87%
22	13.53%	82	92.39%	142	96.99%
23	15.54%	83	92.51%	143	97.10%
24	17.70%	84	92.62%	144	97.21%
25	19.97%	85	92.72%	145	97.32%
26	22.31%	86	92.81%	146	97.44%
27	24.75%	87	92.90%	147	97.56%
28	27.26%	88	92.99%	148	97.68%
29	29.85%	89	93.06%	149	97.80%
30	32.48%	90	93.12%	150	97.92%
31	35.11%	91	93.17%	151	98.04%
32	37.78%	92	93.26%	152	98.16%
33	40.46%	93	93.35%	153	98.28%
34	43.15%	94	93.44%	154	98.40%
35	45.86%	95	93.53%	155	98.52%
36	48.58%	96	93.62%	156	98.64%
37	51.28%	97	93.71%	157	98.76%
38	53.95%	98	93.80%	158	98.89%
39	56.60%	99	93.89%	159	99.01%
40	59.21%	100	93.97%	160	99.13%
41	61.77%	101	94.05%	161	99.25%
42	64.28%	102	94.13%	162	99.37%
43	66.70%	103	94.20%	163	99.49%
44	68.98%	104	94.28%	164	99.51%
45	71.08%	105	94.35%	165	99.53%
46	73.06%	106	94.43%	166	99.55%
47	74.87%	107	94.50%	167	99.56%
48	76.58%	108	94.58%	168	99.57%
49	78.21%	109	94.66%	169	99.59%
50	79.66%	110	94.74%	170	99.60%
51	80.89%	111	94.82%	171	99.62%
52	81.93%	112	94.90%	172	99.63%
53	82.91%	113	94.99%	173	99.64%
54	83.75%	114	95.07%	174	99.66%
55	84.49%	115	95.16%	175	99.67%
56	85.18%	116	95.24%	176	99.67%
57	85.77%	117	95.32%	177	99.68%
58	86.30%	118	95.40%	178	99.68%
59	86.76%	119	95.48%	179	99.68%
60	87.20%	120	95.55%	180	99.73%

ANNEX A TO ATTACHMENT B
Pacific Gas and Electric Company
Collections Curve Description
May 2, 2001

Attachment C
SAMPLE DAILY AND MONTHLY REPORTS

Daily Remittance Report

Pursuant to Attachment B of the Servicing Agreement No. [DWR Assigned Number] dated as of [to be completed] (the "Agreement") between the State of California Department of Water Resources and Pacific Gas and Electric Company (PG&E), PG&E does hereby certify as follows:

Capitalized terms used in the Daily Remittance Report have their respective meanings as set forth in the Agreement. References herein to certain sections and subsections are references to the respective sections of the Agreement.

Forecast Period: July 2002 (Draft)

EXAMPLE FOR ILLUSTRATIVE PURPOSES ONLY

Line No.	<u>FORECAST COLLECTIONS & DAILY SEGREGATION AMOUNT</u>	
1	Collection period start	01-Jul-02
2	Collection period stop	31-Jul-02
3	Forecast Collection	\$95,000,000.00
4	Remaining business days in collection period	23
5	Daily Remittance Amount	<u>\$4,130,434.78</u> (Ln. 3 / Ln. 4)

IN WITNESS HEREOF, the undersigned has duly executed and delivered this Daily Remittance Report.
this ____ day of _____, ____.

PACIFIC GAS AND ELECTRIC COMPANY, as Servicer

by: _____

Kent Harvey
Sr. Vice President - CFO and Treasurer

Monthly Reconciliation Report

Pursuant to Attachment B of the Servicing Agreement No. [DWR Assigned Number] dated as of [to be completed] (the "Agreement") between the State of California Department of Water Resources and Pacific Gas and Electric Company (PG&E), PG&E does hereby certify as follows:

Capitalized terms used in the Monthly Reconciliation Report have their respective meanings as set forth in the Agreement. References herein to certain sections and subsections are references to the respective sections of the Agreement.

Collection Period: July 2002 (Draft)

EXAMPLE FOR ILLUSTRATIVE PURPOSES ONLY

Line No.	<u>BILLED REVENUE SUMMARY</u>		
1	Current monthly billing period	Jul-02	
2	DWR KWh billed (prior period)	50,000,000	
3	DWR KWh billed (current period)	50,000,000	
4	DWR charge per Kwh (prior period)	\$1.50	
5	DWR charge per Kwh (current period)	\$0.50	
6	<i>Current period billed DWR charges</i>	\$100,000,000	<i>(Ln.2*Ln.4) + (Ln.3*Ln.5)</i>
7	DWR charges not accounted for in prior periods	\$0	
8	G&E net write-offs as % of G&E billed revenues	0.0500	
9	Adjustments based on settlement data	\$100,000	
10	20/20 Program Deductions	-\$200,000	
11	Deductions otherwise permitted under the Agreement	-50,000	

		Monthly Remittance Percentages							
Line No.		30 Days	60 Days	90 Days	120 Days	150 Days	180 Days	Total	
1	Billed DWR Charges	32.48%	54.72%	5.92%	2.44%	2.37%	1.81%	99.73%	<i>Collection Curve</i>
2	July	\$100,000,000	\$32,480,000						
3	June	\$90,000,000	\$49,248,000						
4	May	\$110,000,000		\$6,512,000					
5	April	\$105,000,000			\$2,562,000				
6	March	\$95,000,000				\$2,251,500			
7	Feb	\$100,000,000					\$1,810,000		
8	Total							\$94,863,500	
<u>Reconciliation Process</u>									
9	Feb. Billed DWR Charges							\$100,000,000	<i>Ln.7 (Billed DWR Charge Col.)</i>
10	Feb. DWR net write-offs							\$50,000	<i>Ln.9*Ln.8(p.1)</i>
11	Feb. net billed DWR Charges							\$99,950,000	<i>Ln.9-Ln.10</i>
12	Amount previously remitted to DWR							\$99,730,000	<i>Ln.9*Ln.1 (Total Col.)</i>
13	Write-off adjustment							\$220,000	<i>Ln.11-Ln.12</i>
14	Aggregate remittance amount							\$95,083,500	<i>Ln.8+Ln.13</i>
15	Adjustments and deductions							-\$150,000	<i>From p. 1: Ln.7 + Ln. 9 + Ln. 10 + Ln. 11</i>
16	Estimated DWR Collections for July							\$94,933,500	<i>Ln.14 + Ln.15</i>
17	Forecast Collections for July							\$95,000,000	<i>Total from Daily Remittance Reports</i>
18	Reconciliation Amount							\$66,500	<i>Ln. 17 - Ln. 16</i>

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Monthly Reconciliation Report
this ____ day of _____, ____.

PACIFIC GAS AND ELECTRIC COMPANY, as Servicer

by: _____

Kent Harvey

Sr. Vice President - CFO and Treasurer

ATTACHMENT D
PACIFIC GAS AND ELECTRIC COMPANY
GENERAL TERMS AND CONDITIONS

For purposes of this Attachment D, Utility shall be deemed to be the “Contractor” hereunder. To the extent that Contractor's compliance with any of the terms of this Attachment D results in additional costs and expenses for Contractor (except to the extent the terms of this Attachment D merely require compliance with laws or regulations which apply to the Contractor irrespective of the existence of this Agreement), Contractor will invoice DWR for such additional costs and expenses, and DWR shall pay such invoices as Additional Charges, in the manner contemplated by Section 7 of the Agreement.

1. **RECYCLING CERTIFICATION:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this Agreement, regardless of whether the product meets the required recycled product percentage as defined in the Public Contract Code, Sections 12161 and 12200. Contractor may certify that the product contains zero recycled content. (PCC 10233, 10308.5, 10354)

2. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all contracts with subcontractors to perform work under the Agreement.

3. **CERTIFICATION CLAUSES:** The CONTRACTOR CERTIFICATION CLAUSES attached hereto are hereby incorporated by reference and made a part of this Agreement.

4. CHILD SUPPORT COMPLIANCE ACT: “For any Agreement in excess of \$100,000, the contractor acknowledges that:

a. the contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. the contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.”

5. UNION ORGANIZING: Contractor by signing this Agreement hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this Agreement.

a. Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.

b. No state funds received under this agreement will be used to assist, promote or deter union organizing.

c. Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings.

d. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and that Contractor shall provide those records to the Attorney General upon request.

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY, or EXECUTE THIS CERTIFICATION, in the manner required by Applicable Law, certifying thereby that I am duly authorized to legally bind the entity identified below to the clause(s) listed in the following numbered paragraphs 1-5. This certification is made under the laws of the State of California.

PACIFIC GAS AND ELECTRIC COMPANY

By: _____

Name: _____

Title: _____

Date: _____

Federal ID Number _____

Executed in the County of _____

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103) .

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1) the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

3. **NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court which orders Contractor to comply with an order of the National Labor Relations Board. (PCC 10296)

4. RECYCLED MATERIALS: Contractor hereby certifies under penalty of perjury that at least 0% of the materials, goods and supplies offered or products used in the performance of this Agreement meet or exceed the minimum percentage of recycled materials as defined in Sections 12161 and 12200 of the Public Contract Code.

5. UNION ACTIVITIES: In compliance with California Government Code Sections 16645 – 16649, Contractor hereby certifies that no request for reimbursement, or payment under this agreement, will be made for costs incurred to assist, promote or deter union organizing.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. **CONFLICT OF INTEREST:** Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (PCC 10410):

- 1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (PCC 10411):

- 1) For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2) For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (PCC 10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (PCC 10430 (e))

2. **LABOR CODE/WORKERS' COMPENSATION:** Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. **AMERICANS WITH DISABILITIES ACT:** Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits

discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. **CONTRACTOR NAME CHANGE:** An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. **AIR OR WATER POLLUTION VIOLATION:** Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

6. **PAYEE DATA RECORD FORM STD. 204:** All contractors that are not another state agency or other government entity must complete this form.

ATTACHMENT E
PACIFIC GAS AND ELECTRIC COMPANY
ADDITIONAL PROVISIONS

1. Other Agreements.

Not Applicable.

2. Approval of Bankruptcy Court.

Utility is a debtor in possession in a Chapter 11 reorganization case pending in the Bankruptcy Court. In the event that Utility elects to have the Bankruptcy Court approve Utility's execution and performance of the Agreement, then it shall be a condition precedent to the effectiveness of the Agreement that Utility shall file with the Commission an order or decision of the Bankruptcy Court approving Utility's execution and performance of the Agreement (in the same form approved by the Commission), which order or decision shall have been issued no earlier than the date of the Commission's order or decision approving the Agreement.

3. Completion of Imbalance Energy Agreement.

The Parties shall work together to reach the amendment to the Agreement concerning Imbalance Energy referenced in Section 2.2(c) of the Agreement within 30 calendar days of the Execution Date.

4. Reservation of Rights.

Notwithstanding (i) the terms, execution or operation of the Agreement, (ii) the approval of, any modification to, or any other action taken with respect to or having an effect on the Agreement by the Bankruptcy Court, the Commission or any other Governmental Authority, or (iii) any other action taken by a Governmental Authority, Utility hereby reserves all rights (if any) in any forum to contest, oppose, appeal, comment on, or otherwise seek to revisit, alter, modify or set aside any present or future decisions, orders, opinions, rulings, or actions or omissions to act by the Commission or any other Governmental Authority, whether in draft, interim or final form, arising out of, relating to, or connected with (x) the calculation of DWR Charges or DWR Revenues and the allocation of costs and amounts of electric capacity and output among the customers of electrical corporations, (y) the interpretation and/or legality of Applicable Law or Applicable Commission Orders, or (z) remittance of such calculated amounts by Utility to DWR or its Assign(s) under Applicable Law or Applicable Commission Orders in a manner inconsistent with this Agreement or Utility's ability to perform its utility functions.

5. Orders of the Federal Energy Regulatory Commission.

Nothing in the Agreement shall operate to modify any of the requirements of any order of the Federal Energy Regulatory Commission. Without limiting the generality of the foregoing,

nothing in the Agreement shall obligate Utility to pay for costs that would be inconsistent with any order of the Federal Energy Regulatory Commission or the ISO tariff.

6. Scheduling Practices

Utility and DWR shall work together to assure that any Customer demand served as a result of the Agreement is accurately estimated and scheduled, and that no deviations or imbalances result except to the extent resulting from unforeseeable variations in demand or resources. Where scheduling practices produce deviations and schedules either higher or lower than Customer demand, apart from such unforeseeable variations, DWR and Utility shall promptly attempt to revise and cooperate to eliminate such deviations and modify any scheduling practices which produce such deviations.

If, over any rolling seven day period, the aggregate amount of scheduled DWR Power exceeds the aggregate Net Open Position for such period by at least 100,000 MWh (“Overscheduling”), Utility and DWR shall promptly meet, confer and cooperate in an attempt to modify any scheduling practices which produce such deviations, consistent with commercially reasonable practices. Overscheduling by DWR shall be considered a commercially reasonable practice if DWR has reasonably determined that Utility’s load forecasts are consistently low or if Utility has consistently failed to deliver scheduled utility retained generation. Notwithstanding any commercially reasonable practice for Overscheduling, the Monthly Reconciliation Amount shall be adjusted in order to ensure that Remittances are based solely on the portion of scheduled DWR Power actually delivered to Customers and not for any overscheduled amounts in excess of Customer usage. The Net Open Position, as used in this section, refers to the difference between actual Customer usage and actual Utility-retained generation during the given period.

7. Imbalance Energy Reports.

Until DWR and Utility reach an agreement on Imbalance Energy, but subject to the availability of necessary information, DWR will provide Utility with weekly reports detailing how much electric power and energy DWR purchased or otherwise agreed to pay for in connection with purchases made in the Real Time Market for each day not previously reported, in total and for provision to Customers. For purposes of this Section 7, “Real Time Market” means the market(s) in which electric power and energy is purchased and sold on a real time basis in order to meet demand over and above electric power and energy scheduled in the Day-Ahead Market or Hour-Ahead Market. Utility acknowledges that DWR may expressly identify information provided to Utility under this section as “Confidential Information” subject to Section 6 of the Agreement.

ATTACHMENT F

CALCULATION METHODOLOGY FOR REDUCED REMITTANCES PURSUANT TO 20/20 PROGRAM

1. Reimbursement of 20/20 Program Rebate Costs.

Utility shall recover the amount of Customer credits under the 20/20 Program as follows:

On the **30th** day after the presentation of credits on Consolidated Utility Bills, Utility shall reduce any Remittances to DWR under the Act or Commission Decision 01-03-081 by the daily amount equal to the total of such Customer credits. If the amount that Utility is entitled to offset on any day exceeds the funds otherwise due to DWR, the balance will be carried over to the next day. If it appears that the amount Utility is entitled to offset will exceed the funds due to DWR for more than three consecutive days, then Utility will invoice DWR with an estimate of the amount due to Utility. DWR will pay such invoice within one Business Day of receipt. For purposes of this Attachment F, the credits or payments shall refer to the 20 % reduction applied to Customers' total net electric power and energy charges (including applicable rate surcharges), and shall include credits or payments made to resolve Customer disputes or reflect corrected Consolidated Utility Bills following the end of the 20/20 Program.

2. Reimbursement of 20/20 Program Implementation Costs.

DWR will pay to Utility the following initial implementation fee and recurring administrative fees associated with the 20/20 Program as provided for in Section 4.3 of the Agreement. The initial implementation fee shall be \$1,563,500 and the recurring administrative fees shall be \$809,000 each month June through September of 2001 (unless extended and then until such later date). The basis for these fees is set forth in Annex A to this Attachment F.

3. Estimated Costs.

The intent is to reimburse the actual, incremental costs incurred by PG&E. PG&E will exercise reasonably commercial efforts in managing their operations to minimize costs and keep within the budgeted costs shown in the table below:

- a. PG&E shall invoice DWR after a 20/20 Program implementation activity described below has been completed and will undertake reasonable commercial efforts to track and keep costs within the estimated costs shown in this Attachment F.

- b. For the majority of PG&E's 20/20 Implementation Costs (Page 1 of Annex A below), PG&E will invoice DWR based on actual costs and provide DWR with an invoice itemizing and documenting such costs.
- c. For costs items: Increased Call Volumes, Increases Calls to Language Lines, Increased Field Services and Adjustment/Exception Processing ("Increased Customer Inquiries" listed on Page 2 of Annex A below) PG&E is unable to track, itemize and provide detailed documentation of these Monthly Recurring without undertaking extensive system programming and hardware upgrades. Accordingly, DWR agrees PG&E shall utilize the PG&E Estimated Costs shown in this Attachment F for PG&E's invoicing purposes without undertaking a true-up to actual costs. Invoicing for Increased Customer Inquiries will be handled in the following manner:

PG&E shall invoice DWR each month based on the Increased Customer Inquiries cost estimates shown below, with a signed statement from management asserting to an informal review and to their belief that the estimated costs still represent the best estimate for the period being invoiced. If however, PG&E experiences a significantly higher or lower difference in activity levels of customer inquiries, PG&E will notify DWR and provide to DWR documentation reasonably necessary to establish such different activity levels. Promptly thereafter, PG&E and DWR shall negotiate a mutually acceptable adjustment based on an estimate of reasonably foreseeable costs for Increased Customer Inquiries.

4. 20/20 Program Reporting

- a. **Daily** – To the extent reasonably possible, within three Business Days Utility shall provide DWR with a report for a given billing day showing the aggregated dollar amounts of 20/20 Program credits applied to Consolidated Utility Bills and the number of Customers that received credits under the 20/20 Program
- b. **Monthly** – To the extent reasonably possible, Utility shall provide DWR with monthly reports showing the aggregated dollar amount of 20/20 Program credits applied to Consolidated Utility Bills and the number of Customers that received credits under the 20/20 Program. In addition Utility will provide a prior year and current year comparison showing system wide average monthly KWH savings. Monthly reports will be completed and submitted to DWR on the Business Day immediately following the 20th day of each month.
- c. **Other** – To the extent reasonably possible, Utility shall provide DWR with a report at the completion of the 20/20 Program showing the reduction in kWh related to credits provided to Customers under the 20/20 Program.

Annex A to Attachment F

Cost Element	Description	One-Time Implementation Costs	Monthly Recurring Costs
<i>IT Program- ming</i>	Analysis and design, programming, unit and system testing for multiple billing systems (Genesis, LCIS, WL, ABS and Customer Care Support Systems) Includes modifications to OLBH, TP, EDI Display on Energy Statement and/or Detail of Bill.	\$995,000	
<i>PGE.com website</i>	Modify PGE.com to integrate new web pages (20/20 Rebate Reward Eligibility Rules). Develop graphics and maintain appropriate links to CA website. Includes usability testing. Manage incoming emails from customers, repair broken links, and modify content as appropriate.	\$7,000	\$7,000
<i>Bill Inserts</i>	20/20 Program two panel bill insert for electric residential customers.	\$60,000	
<i>Overprint</i>	Overprint of the bill insert to be used as a mail out for customer service requests. Projected volume 500,000 requests.	\$6,500	
<i>Direct Mailing for CIA customers.</i>	20/20 Program letter to commercial, industrial and agricultural customers (CIA). Assumes \$1.00 per letter including postage and mailing for 400,000 CIA customers.	\$400,000	

<i>CSR Training (includes local office and call center)</i>	Incl. development, delivery and materials. Training 35K Materials/Dev 20K	\$55,000	
<i>Increased Call Volumes</i>	\$4.30 per call with an average call time 3.5 minutes, assuming 10% of customers will call.		\$500,000
<i>Increased calls to language lines</i>	(Chinese, Spanish and Vietnamese) 24,000 calls @ \$7.00		\$168,000
<i>Increased Field Services (Meter rereads, meter tests)</i>	Estimate based on 5% of 200 Account Service Representatives		\$100,000
<i>Adjustment/ Exception Processing</i>	Responds to customer requests to verify or recalculate if eligible for program (This should include Consumer Affairs costs as well) (1M at 10% rate, 625 per FTE. Incr. Volume at end of 4 month period (4 FTE)		\$34,000
<i>Reporting</i>	Performance Reporting		\$10,000

ATTACHMENT G

PACIFIC GAS AND ELECTRIC COMPANY

PG&E FEE SCHEDULE

DWR shall reimburse PG&E for the costs incurred by PG&E in providing Services under this Agreement. PG&E will exercise commercially reasonable efforts in managing its operations to minimize such costs and keep such costs within the estimated amounts referenced below.

1. Charges for Consolidated Utility Billing Service. The Set-Up Fees and Recurring Fees set forth below are PG&E's estimate of its costs of providing Consolidated Utility Billing Service as described in Sections 3 and 4 of the Agreement and Service Attachment 1; provided, however, that such estimate does not include any Additional Charges contemplated under those provisions. PG&E shall have no obligation to track the actual costs for Recurring Services and items where the cost of tracking is burdensome or requires the development of new cost-accounting procedures. The foregoing sentence notwithstanding, if the responsible manager at PG&E becomes aware that the actual costs of providing such services are 10% greater or less than the estimates set forth below, PG&E shall give DWR written notice of (1) the reason(s) for such greater or lesser costs, and (2) PG&E's revised estimate of the Set-Up Fees and/or Recurring Fees corresponding to such greater or lesser costs. Upon receipt of such notice, DWR may either accept the revised fees or, in cooperation with PG&E, examine alternatives for reducing fees. Upon DWR's agreement not to be unreasonably delayed or withheld, revised Set-Up Fees and/or Recurring Fees shall be effective. Set-Up Fees and Recurring Fees, as set forth below or in a notice given pursuant to this Section 1, shall be due and payable as provided in Section 7 of the Agreement.

a. Set-Up Fees. The Set-Up Fees for programming PG&E's billing and related customer care systems to implement Consolidated Utility Billing Service, for modifying PG&E's electronic data interchange system to implement Consolidated Utility Billing Service, and for implementing facilities and procedures for fielding Customer inquiries regarding DWR Charges pursuant to Section 3.4, will total \$1,756,500. The basis for this fee is set forth in Annex A to this Attachment G.

b. Recurring Fees. The Recurring Fees for processing Remittances and fielding Customer inquiries regarding DWR Charges will total \$79,500 in 2001 and \$115,000 per calendar year in each subsequent year. These Recurring Fees do not include any additional amounts for call center operations relating to DWR Charges, which shall be separately invoiced as Additional Charges, as appropriate.

2. Additional Charges. The Additional Charges set forth below are PG&E's estimate of its costs of providing the relevant services under the Agreement. PG&E shall have no obligation to track the actual costs of such services, other than those specified in subsection c., below. The foregoing sentence notwithstanding, if the responsible manager at PG&E becomes aware that the costs of providing such services are 10% greater or less than the estimates set forth below, PG&E shall give DWR written notice of (1) the reason(s) for such greater or lesser costs, and (2) PG&E's revised estimate of the Additional Charges necessary to cover such greater or lesser costs, which revised Additional Charges shall be effective upon delivery of such notice.

Additional Charges, as set forth below or in a notice given pursuant to this Section 2, shall be due and payable as provided in Section 7 of the Agreement and Section 2.c below.

a. Specified Additional Charges.

Not Applicable.

b. Other Additional Charges. PG&E agrees to provide DWR with estimates of all other Additional Charges as and when such information becomes available.

c. Invoicing; Payment. PG&E will invoice DWR for Additional Charges, and DWR shall pay such invoiced Additional Charges, in the manner set forth in Section 7 of the Agreement. Subject to the foregoing sentence, each invoice will:

(1) include or enclose documentation showing the basis of Additional Charges, provided, however, that where providing such documentation would be burdensome, the relevant invoice(s) may instead disclose PG&E's reasonable method of approximating the Additional Charges;

(2) specify PG&E's hourly labor rates and estimated total hours for completion of a given task; and

(3) include or enclose invoices/vendor receipts for equipment purchases.

DWR shall not unreasonably withhold or delay approval or payment of any invoiced Additional Charges.

d. Contact for Invoices. Invoices shall be addressed to:

Attn: Jim Olson, Deputy Comptroller
Chief of Financial Management and Reporting
Department of Water Resources
California Energy Resources Scheduling Division
3310 El Camino Avenue, Suite 120
Sacramento, California 95821

Telephone: (916) 574-1297
Facsimile: (916) 574-0301
Email: jolson@water.ca.gov

ANNEX A TO ATTACHMENT G

<u>Items</u>	SETUP	RECURRING			
	2001	2001	2002	2003	2004
Billing Systems Programming: Analysis and design, programming, unit and system testing for multiple billing systems and programming to display DWR Charges on Energy Statement and Detail of Bill.	\$1,650,000				
EDI Modification: Programming and testing of EDI. Communication with trading partners.	\$5,500				
Revenue Reporting and Remittance Processes: Following initial modifications to revenue reporting processes and development of new reports, ongoing costs include monthly revenue reporting and invoice processing.	\$46,000	\$79,500	\$115,000	\$115,000	\$115,000
Call Center Training: Development and delivery of training materials for Customer contact personnel. Training labor - \$35K Development and Materials \$20K	\$55,000				
Total Costs	\$1,756,500	\$79,500	\$115,000	\$115,000	\$115,000

ATTACHMENT H
PACIFIC GAS AND ELECTRIC COMPANY
ADJUSTMENTS TO DWR CHARGES FOR VARIANCES IN
DWR POWER DELIVERED

Not applicable. The Parties intend that this Agreement contain no Attachment H.